

Maryann Brothers, et al.

vs.

Nashville 5G Holdings, LLC, et al.

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Deposition of:

DOMINIQUE BELL

May 20, 2009

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Condensed Transcript and Word Index

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<p>IN THE UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION MARYANN BROTHERS, et al., ) Plaintiffs, ) vs. ) NO. 3:08-cv-1166 NASHVILLE 5G HOLDINGS, LLC, ) et al., ) Defendants. ) _____ )</p> <p>Deposition of: DOMINIQUE BELL Taken on behalf of the Defendants May 20, 2009</p> <p>----- CLEETON DAVIS COURT REPORTERS, LLC 200 Fourth Avenue North, Suite 825 Nashville, Tennessee 37219 (615) 726-2737 www.cleetondavis.com</p>	<p>1 INDEX 2 Questions by Mr. Tower.....5 3 EXHIBITS 4 No. 1: Letter 5/8/09 Medlin to Sims.....36 5 No. 2: Charge of Discrimination.....58 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>1 APPEARANCES: 2 For the Plaintiffs: Douglas B. Janney III, Esq. 3 Attorney at Law 4 2002 Richard Jones Road 5 Suite B-200 6 Nashville, Tennessee 37215 7 - and - 8 Stephen W. Grace, Esq. 9 Attorney at Law 10 1019 16th Avenue South 11 Nashville, Tennessee 37212 12 For the Defendants: D. Earl Baggett, Esq. 13 King F. Tower, Esq. 14 1021 East Cary Street 15 Richmond, Virginia 23218-1320 16 Also Present: Jim Davis - Videographer 17 John Isaac 18 Bill McKechnie 19 Jim Newman 20 MaryAnn Brothers 21 22 23 24 25</p>	<p>1 The videotaped deposition of DOMINIQUE BELL 2 was taken by counsel for the Defendants, pursuant to 3 Notice, at the offices of Douglas B. Janney III, Esq., 4 2002 Richard Jones Road, Suite B-200, Nashville, 5 Tennessee, on May 20, 2009, for all purposes under the 6 Federal Rules of Civil Procedure. 7 The formalities as to caption, certificate, 8 et cetera, are waived. All objections, except as to 9 the form of the questions, are reserved to the hearing. 10 It is agreed that B. J. Davis, being a court 11 reporter and notary public for the State of Tennessee, 12 may swear the witness, and that the reading and signing 13 of the completed deposition by the witness are waived. 14 15 * * * 16 17 18 19 20 21 22 23 24 25</p>

<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Okay. Here we go.</p> <p>3 This is the beginning of tape number one of the</p> <p>4 deposition of Dominique Bell. The time is 4:09. The</p> <p>5 court reporter will now swear in the witness.</p> <p>6 DOMINIQUE BELL,</p> <p>7 was called as a witness, and after having been first</p> <p>8 duly sworn, testified as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. BAGGETT:</p> <p>11 Q. Good afternoon, Ms. Bell.</p> <p>12 A. <b>Good afternoon.</b></p> <p>13 Q. My name is Earl Baggett. We met earlier. I</p> <p>14 represent the defendants in this case, Nashville 5G</p> <p>15 Holdings, comma, LLC, Mr. McKechnie, Bill McKechnie,</p> <p>16 and John Isaac.</p> <p>17 I know you've been observing at least one,</p> <p>18 possibly two depositions the last couple of days, but I</p> <p>19 wanted to kind of go over a couple of ground rules to</p> <p>20 make sure you and I are on the same page. Okay?</p> <p>21 As you know, there's a court reporter here</p> <p>22 transcribing everything that you're going to be saying.</p> <p>23 There's also a videographer here.</p> <p>24 There are several things that we can do to</p> <p>25 make their job, especially the court reporter's job,</p> <p style="text-align: right;">Page 5</p>	<p>1 The -- the majority of the time you will still be</p> <p>2 instructed to answer the question unless Mr. Janney</p> <p>3 specifically tells you not to answer.</p> <p>4 A. <b>Uh-huh.</b></p> <p>5 Q. You understand that you've taken an oath to</p> <p>6 tell the whole truth today?</p> <p>7 A. <b>Yes.</b></p> <p>8 Q. Just like you would if you were sitting in</p> <p>9 court.</p> <p>10 Are you taking any -- any type of medication</p> <p>11 today?</p> <p>12 A. <b>No, sir.</b></p> <p>13 Q. Okay. Is there anything that would prohibit</p> <p>14 you from telling the whole truth today?</p> <p>15 A. <b>No.</b></p> <p>16 Q. Is there anything that would prohibit you from</p> <p>17 recalling events, impairing your ability to recall</p> <p>18 events?</p> <p>19 A. <b>No.</b></p> <p>20 Q. Is there any reason why you cannot proceed</p> <p>21 with the deposition right now?</p> <p>22 A. <b>No.</b></p> <p>23 Q. Okay. Did you review any documents in</p> <p>24 preparation for your deposition today?</p> <p>25 A. <b>Yes.</b></p> <p style="text-align: right;">Page 7</p>
<p>1 easier. One is let's not talk over each other. Let's</p> <p>2 try to talk one at a time. I will try not to interrupt</p> <p>3 you, but if I do let me know and I'll let you finish.</p> <p>4 Okay?</p> <p>5 Similarly, if you can let me finish asking my</p> <p>6 question before you start answering that would be</p> <p>7 great.</p> <p>8 Secondly, as you've heard Mr. Janney on a</p> <p>9 number of occasions today, make sure you verbalize your</p> <p>10 answers yes or no instead of uh-huhs and uh-uhs and</p> <p>11 head nods. Okay?</p> <p>12 If you don't understand a question that I ask</p> <p>13 you at any point today, please stop me and let me know.</p> <p>14 I can either repeat it or I can rephrase it. Okay?</p> <p>15 A. <b>Okay.</b></p> <p>16 Q. Okay. If you don't ask me I'm going to assume</p> <p>17 that you understand the question. Okay? Is that fair?</p> <p>18 A. <b>Yes.</b></p> <p>19 Q. And if at any time during the deposition,</p> <p>20 hopefully it won't be as long as some of the others, if</p> <p>21 you need to take a break let me know and we'll take a</p> <p>22 break as soon as I finish that line of questioning.</p> <p>23 A. <b>Okay.</b></p> <p>24 Q. There may be several times during this</p> <p>25 deposition where your attorney may raise an objection.</p> <p style="text-align: right;">Page 6</p>	<p>1 Q. What documents were they?</p> <p>2 A. <b>My papers from the EEOC.</b></p> <p>3 Q. Did you review your answers to the</p> <p>4 interrogatory questions that --</p> <p>5 A. <b>Yes, yes.</b></p> <p>6 Q. Is there anything else?</p> <p>7 A. <b>And Mr. Isaac's response from the E -- from</b></p> <p>8 <b>the EEOC.</b></p> <p>9 Q. Were those the only three things that you</p> <p>10 reviewed or were there others?</p> <p>11 A. <b>I believe that -- I believe that -- I believe</b></p> <p>12 <b>that's all. I'm not for sure though.</b></p> <p>13 Q. Okay. Ms. Bell, can you state your full name</p> <p>14 for the record?</p> <p>15 A. <b>Dominique Nicole Bell.</b></p> <p>16 Q. And where do you live, Ms. Bell?</p> <p>17 A. <b>1679 Hillside, Nashville, Tennessee 37203.</b></p> <p>18 Q. I'm going to ask you to slow down just a tad.</p> <p>19 I mean, I'm sure B. J.'s probably keeping up with you,</p> <p>20 but -- how old are you, Ms. Bell?</p> <p>21 A. <b>I'm 30.</b></p> <p>22 Q. What's your birthday?</p> <p>23 A. <b>9/10/78.</b></p> <p>24 Q. Where were you born?</p> <p>25 A. <b>Where?</b></p> <p style="text-align: right;">Page 8</p>

<p>1 Q. Yes, ma'am.</p> <p>2 <b>A. Nashville.</b></p> <p>3 Q. Are you married?</p> <p>4 <b>A. Uh-huh.</b></p> <p>5 Q. How long have you been married?</p> <p>6 <b>A. For 11 years.</b></p> <p>7 Q. Who's your husband?</p> <p>8 <b>A. Eric Gardner.</b></p> <p>9 Q. Do you have any children?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. How many?</p> <p>12 <b>A. Two.</b></p> <p>13 Q. How old are your children?</p> <p>14 <b>A. Fourteen and nine.</b></p> <p>15 Q. And does your husband live with you?</p> <p>16 <b>A. No.</b></p> <p>17 Q. He does not live with you?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Where does he live?</p> <p>20 <b>A. In Kentucky.</b></p> <p>21 Q. In Kentucky. Are you-all separated?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Okay. Do your children live with you?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Other than your children do you have any other</p> <p style="text-align: right;">Page 9</p>	<p>1 refer to Five Guys I'm referring to Nashville 5G</p> <p>2 Holdings, LLC, the corporate entity that's a defendant</p> <p>3 in this suit.</p> <p>4 <b>A. Okay.</b></p> <p>5 Q. And I -- I don't think we're going to need to</p> <p>6 mention the Five Guys Enterprises, but if it -- it --</p> <p>7 it does come up we'll specifically address it at Five</p> <p>8 Guys Enterprises. Okay?</p> <p>9 <b>A. Okay.</b></p> <p>10 Q. Other than this lawsuit have you ever been</p> <p>11 involved in a lawsuit?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Have you ever filed an EEOC charge other than</p> <p>14 the one that you've filed in this --</p> <p>15 <b>A. No.</b></p> <p>16 Q. -- lawsuit? Did you discuss the fact that you</p> <p>17 were being deposed today with anyone other than your</p> <p>18 lawyers?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Does your family know that you're being</p> <p>21 deposed today?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Did you discuss your deposition with anybody</p> <p>24 other than your lawyers?</p> <p>25 <b>A. Talking about what we're doing now?</b></p> <p style="text-align: right;">Page 11</p>
<p>1 family in Tennessee?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Who else do you have, immediate family?</p> <p>4 <b>A. My whole family except for my mother.</b></p> <p>5 Q. So you've got a lot of -- a lot of family?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Okay. Ms. Bell, have you ever been convicted</p> <p>8 of a crime?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Have you ever been accused of committing a</p> <p>11 crime?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Have you ever lied or given misleading</p> <p>14 information on an employment application before?</p> <p>15 <b>A. Not that I recall, no.</b></p> <p>16 Q. Did you fill out an application when you</p> <p>17 started work up at Nashville Five Guys?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Have you filled out applications for employers</p> <p>20 subsequent to your time at Nashville Five Guys?</p> <p>21 <b>A. Talking about after Five Guys?</b></p> <p>22 Q. Yes, ma'am.</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Similar to the instruction that was given in</p> <p>25 the previous depositions, for sake of clarity when I</p> <p style="text-align: right;">Page 10</p>	<p>1 Q. Did you discuss the fact that you were going</p> <p>2 to be in a deposition, either today or this week, with</p> <p>3 anybody other than your lawyers?</p> <p>4 <b>A. When they -- with Mr. Newman when he called me</b></p> <p>5 <b>and told me what my appointment date was for the</b></p> <p>6 <b>deposition.</b></p> <p>7 Q. Okay. Have you spoken with Mr. Newman about</p> <p>8 the things that you may be asked to testify to today?</p> <p>9 <b>A. No.</b></p> <p>10 Q. How about any of the other plaintiffs?</p> <p>11 <b>A. No. I asked -- well, I take that back. I</b></p> <p>12 <b>asked him what was a deposition because I didn't know.</b></p> <p>13 Q. And what did he say?</p> <p>14 <b>A. He said it's like -- they'll ask you questions</b></p> <p>15 <b>something like a jury would ask you, and that's how he</b></p> <p>16 <b>summarized it up for me.</b></p> <p>17 Q. Prior to getting involved in this lawsuit did</p> <p>18 you speak to any of the plaintiffs about your</p> <p>19 employment at Nashville Five Guys and any type of</p> <p>20 potential legal activity?</p> <p>21 <b>A. No, not since I worked there. Well, it wasn't</b></p> <p>22 <b>even legal then, so no.</b></p> <p>23 Q. I -- I don't understand.</p> <p>24 <b>A. When I worked for Five Guys --</b></p> <p>25 Q. Uh-huh.</p> <p style="text-align: right;">Page 12</p>

<p>1 <b>A. -- I used to ask MaryAnn what should I do or</b>  2 <b>either I just tell her what happened, but other than</b>  3 <b>that no.</b>  4 Q. In which instances were you talking to  5 MaryAnn? What were the facts surrounding the  6 conversation with MaryAnn?  7 <b>A. Like how I felt like -- what are the facts of</b>  8 <b>what was happening to me?</b>  9 Q. Both.  10 <b>A. Both. When I was approached by a shift leader</b>  11 <b>they -- something was going on with my register. I was</b>  12 <b>told -- well, I was told by Ashley Johnson that I was</b>  13 <b>being investigated because my register was coming up</b>  14 <b>short and I didn't know -- well, they told me that it</b>  15 <b>was up under investigation because my register was</b>  16 <b>coming -- coming up short and they didn't know if I was</b>  17 <b>taking the money out or someone else was taking the</b>  18 <b>money out, but when they counted my register it wasn't</b>  19 <b>coming up short, but when somebody else was counting it</b>  20 <b>was coming up short.</b>  21 Q. Okay.  22 <b>A. So I had told MaryAnn that I didn't want to be</b>  23 <b>on the register anymore, and she asked me why, and I</b>  24 <b>told her I was up under investigation for this. And I</b>  25 <b>had told her that I had overheard a conversation about</b></p> <p style="text-align: right;">Page 13</p>	<p>1 it down, does the cashier count it down, or does the  2 manager count it down, or do you do it together?  3 <b>A. The manager counted it down is how it worked</b>  4 <b>at first, then it got to the point where me and a</b>  5 <b>manager had to count it down, and then it got to the</b>  6 <b>point back to where the manager was counting it down.</b>  7 Q. Okay. And it was your testimony that your  8 register was coming up short; is that correct?  9 <b>A. Uh-huh.</b>  10 Q. How many times do you recall your register  11 coming up short?  12 <b>A. I was told about four times.</b>  13 Q. Who told you that?  14 <b>A. Ashley -- Ashley had told me twice, Mr. Isaac</b>  15 <b>had told me once, and MaryAnn had told me once, MaryAnn</b>  16 <b>Brothers had told me once.</b>  17 Q. And it was your understanding that -- you've  18 got three individuals telling you. One of them said it  19 happened twice and two others said it happened once.  20 <b>A. Uh-huh.</b>  21 Q. That -- each person telling you that was a --  22 a separate instance of when your register came up  23 short?  24 <b>A. Uh-huh.</b>  25 Q. Okay. So it's your understanding that --</p> <p style="text-align: right;">Page 15</p>
<p>1 <b>us being called monkeys.</b>  2 Q. Is that it?  3 <b>A. Then, also, about why did I have to be the</b>  4 <b>only person that will do anything, well -- well, work</b>  5 <b>my butt off for Five Guys, but when it come down to</b>  6 <b>pulling somebody from the back to go out to the lobby</b>  7 <b>or do the bathrooms it's always me, just little things</b>  8 <b>like that, you know, but -- when it's the cashier or</b>  9 <b>whoever's in the front that's supposed to do it.</b>  10 Q. Anything else?  11 <b>A. Not that I can recall right now.</b>  12 Q. Okay. You listed by my count three things.  13 Let's go back and talk about each one of them. First,  14 you -- you mentioned that your shift leader, Ashley  15 Johnson, approached you about your register coming up  16 short --  17 <b>A. Uh-huh.</b>  18 Q. -- and that you thought you were under  19 investigation.  20 <b>A. I was told I was under investigation.</b>  21 Q. Ashley told you you were under investigation?  22 <b>A. Yes. It was said that it was under</b>  23 <b>investigation, the whole register coming up short was</b>  24 <b>under investigation.</b>  25 Q. When the register's counted down do you count</p> <p style="text-align: right;">Page 14</p>	<p>1 <b>A. It was -- it was told me that it was -- they</b>  2 <b>would tell me the next -- the next day that my register</b>  3 <b>was coming up short.</b>  4 Q. So there were four separate occasions --  5 <b>A. Yes.</b>  6 Q. -- on four separate -- let me finish.  7 <b>A. Okay.</b>  8 Q. -- on four separate days where your register  9 was coming up short?  10 <b>A. Yes.</b>  11 Q. The four times that your register came up  12 short tell me how each -- in each of those  13 instances how the register was counted down. Were you  14 by yourself counting it, was the manager counting it by  15 himself, or were you and the manager there together?  16 <b>A. No. After -- after it -- I guess it had been</b>  17 <b>coming up short before, but I wasn't noticed -- I</b>  18 <b>wasn't notified of it, but once it had been coming up</b>  19 <b>short often I guess is when the manager started</b>  20 <b>counting down. That's when they was telling me that my</b>  21 <b>register was coming up short and that's when the</b>  22 <b>managers was counting them down.</b>  23 Q. So each of the four times when your register  24 was coming up short you were -- you were never present  25 when the register was counted down?</p> <p style="text-align: right;">Page 16</p>

1 **A. Uh-uh.**  
2 Q. Who counted the register down --  
3 MR. JANNEY: Wait. Wait. Wait. You  
4 need to verbalize your answer.  
5 THE WITNESS: I'm sorry. No.  
6 **A. Whoever was the manager on shift.**  
7 BY MR. BAGGETT:  
8 Q. Okay. And was it -- was John Issac that  
9 manager on occasion?  
10 **A. I -- I worked under all three of them.**  
11 Q. Okay. What other managers -- well, strike  
12 that.  
13 What managers counted down your register when  
14 you had a shortage?  
15 **A. John Issac.**  
16 Q. Every time?  
17 **A. As far as I know. Well, no, I take that back.**  
18 **John Issac -- the majority of the time I worked on the**  
19 **cash register I worked under John Issac or Ashley**  
20 **Johnson.**  
21 Q. And did your register ever come up short when  
22 Ashley Johnson counted your register?  
23 **A. Yes.**  
24 Q. How many times?  
25 **A. She told me about twice, I think.**

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1 Q. Okay. And how many times did Mr. Isaac count  
2 your register down when it was short?  
3 **A. He only told me about once.**  
4 Q. So Ms. Johnson -- Ms. Ashley Johnson counted  
5 your register down twice when it was short,  
6 Mr. Isaac, to the best of your knowledge, only counted  
7 it down once when you were short, correct?  
8 MR. JANNEY: Objection to form.  
9 **A. I don't know. They told -- they only told**  
10 **me -- the -- the manager who told me that it was coming**  
11 **up short, that's why Trisha (phonetic) was my counting**  
12 **the drawer, but I don't know who had been in my drawer**  
13 **because everybody worked in my drawer, so, therefore,**  
14 **I'm just going by what I was told.**  
15 BY MR. BAGGETT:  
16 Q. Did you have any knowledge of whether other  
17 cashiers were under investigation or had been under  
18 investigation for their cash register --  
19 **A. No, I don't.**  
20 Q. -- coming up short?  
21 **A. No, I don't.**  
22 Q. Did you believe that your race had anything to  
23 do with the fact that you were being put under  
24 investigation for your register coming up short?  
25 **A. No, I didn't.**

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1 Q. Is it possible that the fact that your  
2 register was coming up short was your fault?  
3 **A. I -- I put it as it was after -- over a**  
4 **certain period of time a lot of things kept on**  
5 **happening to only me. That's how I felt.**  
6 Q. When other cashiers' registers would come up  
7 short would you be notified?  
8 **A. No.**  
9 Q. Okay. So you had -- you had no knowledge as  
10 to whether any other cashiers were under investigation  
11 or whether other cashiers had shortages of  
12 registers, --  
13 **A. Right.**  
14 Q. -- register shortages, correct? So white --  
15 white cashiers may have register shortages that were  
16 under investigation, correct?  
17 **A. I didn't have any white cashiers on my -- on**  
18 **my shift.**  
19 Q. So you were the only -- so there were no --  
20 let's back up.  
21 What store were you employed at?  
22 **A. Green Hills.**  
23 Q. Were you employed at Green Hills the entire  
24 time that you were with Five Guys?  
25 **A. Uh-huh.**

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1 Q. The entire time that you were employed at Five  
2 Guys were you -- there were no white cashiers?  
3 **A. We had -- when I worked in the evenings on**  
4 **several occasions it was, but I wasn't on the register**  
5 **during that time, and it wasn't my normal shift, but on**  
6 **my shift the only Caucasian people that would be on the**  
7 **register was the managers.**  
8 Q. But there were other white employees that  
9 worked the cash register that worked at Green Hills  
10 during your employment there?  
11 **A. Uh-huh.**  
12 MR. JANNEY: Yes?  
13 THE WITNESS: Yes. I'm sorry.  
14 THE VIDEOGRAPHER: Going off the record.  
15 The time is 4:24.  
16 (Recess taken.)  
17 THE VIDEOGRAPHER: We are back on the  
18 record. The time is 4:31.  
19 BY MR. BAGGETT:  
20 Q. Ms. Bell, before the break we were discussing  
21 three items that you listed that you had discussed with  
22 Ms. Brothers regarding potential discriminatory conduct  
23 during your employment at -- at Five Guys. Do you  
24 recall that line of questioning?  
25 **A. Yes.**

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1 Q. And one that we just talked about was the  
2 shortage of the cash registers. The second one you  
3 mentioned was a -- a comment about monkeys, was that  
4 correct?  
5 **A. Yes.**  
6 Q. Can you explain that -- that -- that -- that  
7 context for me, please?  
8 **A. They were -- Ms. Brothers, Mr. Isaac, and**  
9 **Ms. Johnson was standing at the schedule board which is**  
10 **in a -- behind -- like behind our kitchen, there was**  
11 **like a -- a push door, you push the door and it stay**  
12 **right there, and I heard -- they was talking about**  
13 **something being -- he said they all act like monkeys,**  
14 **all three of them act -- all three of them act like**  
15 **monkeys. They all belong back in the zoo. And I just**  
16 **like politely scooted back and went on back to work.**  
17 **And then when they came out I told MaryAnn, I said,**  
18 **MaryAnn, I heard what he said and I didn't appreciate**  
19 **that, and she was like oh, it's okay, or are you okay?**  
20 **I said, yes, I'm okay. And I just left it alone.**  
21 Q. So you said it was Isaac, Johnson, and  
22 Brothers, Ms. Brothers?  
23 **A. Yes.**  
24 Q. And you overheard it?  
25 **A. Yes.**

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1 Q. Is that all you overheard or did you hear more  
2 before that or after that?  
3 **A. That's -- I heard the -- I heard -- this is**  
4 **all that I heard. They were conversating (phonetic)**  
5 **about, because I was trying to go back there to do**  
6 **something in the kitchen, it was -- they was talking**  
7 **about the scheduling.**  
8 **Ms. -- Ms. Ann said don't put these people --**  
9 **don't put TT, Dominique, I think she said herself, back**  
10 **on the schedule because we were supposed to go to West**  
11 **End. He said, I don't know what for. They all act**  
12 **like little monkeys, belong back in the zoo. And my --**  
13 **that's when I went back.**  
14 Q. Is -- is that all that you heard?  
15 **A. That's all that I heard.**  
16 Q. And did you perceive that comment to be a  
17 derogatory comment about these individuals' race?  
18 **A. I did because that's how I was raised. I was**  
19 **told not to call people monkeys and things like that**  
20 **because it was racial.**  
21 Q. Is it possible that Mr. Isaac was referring to  
22 the way that these individuals behaved and was not  
23 referring to their race?  
24 MR. JANNEY: Objection to form.  
25 **A. I don't think so because we knew a certain way**

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1 **to act at work and we knew we couldn't -- we knew we**  
2 **could do certain things at work, but not just act a**  
3 **fool.**  
4 BY MR. BAGGETT:  
5 Q. So Mr. Isaac re -- referred to who as monkeys?  
6 **A. Me, myself, Zemeca Hall, and Tiara King.**  
7 Q. Okay. Did Tiara ever act silly and horseplay  
8 and goof around at work?  
9 **A. Kind of, yes.**  
10 Q. She did?  
11 **A. Uh-huh.**  
12 Q. The same question for Meca. Who's Meca?  
13 **A. Zemeca Hall.**  
14 Q. Did Zemeca Hall horseplay and joke around and  
15 lollygag at work on occasion?  
16 **A. I'm not sure because I was never -- I never**  
17 **worked with her.**  
18 Q. Okay. So you -- you have no knowledge as to  
19 how Meca or Zemeca Hall would act on a day-to-day in  
20 the store?  
21 **A. No.**  
22 Q. How about you, Ms. Hall? Did -- did you joke  
23 around --  
24 MR. JANNEY: Ms. Bell?  
25 BY MR. BAGGETT:

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1 Q. I mean -- I'm sorry. Ms. Bell.  
2 Ms. Bell, did you joke around and -- and --  
3 and goof off on occasion?  
4 **A. We laughed and joked and stuff like that, but**  
5 **not while we was working. Like before we opened up**  
6 **we're all -- everybody be back there joking and stuff**  
7 **like that, but not to the point of just acting all**  
8 **goofy and monkeying around that like, no. They might**  
9 **say something and we all crack up laughing, I might say**  
10 **something and we all crack up laughing, then we'll go**  
11 **back to it because we know we had to do a certain thing**  
12 **during a certain time before our store opened.**  
13 Q. What -- what does monkeying mean?  
14 **A. I don't know.**  
15 Q. I mean, that was your term. You just said it.  
16 You said we weren't monkeying around. I --  
17 **A. Monkeying around is really acting goofy to me,**  
18 **really acting real goofy to me.**  
19 Q. Other than talking to Ms. Brothers --  
20 **A. Uh-huh.**  
21 Q. -- about this comment about the monkeys in the  
22 zoo, did you bring this to the attention of anybody  
23 else?  
24 **A. Yes. I -- I talked to Ashley about it, Ashley**  
25 **Johnson about it.**

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<p>1 Q. And what did you say to Ashley Johnson?</p> <p>2 <b>A. I just told her, I said, I -- I told her on</b></p> <p>3 <b>several occasions that it didn't feel right to me. I</b></p> <p>4 <b>said a lot of things start -- a lot of things start</b></p> <p>5 <b>feeling not right, period, and all -- maybe -- I told</b></p> <p>6 <b>her it -- maybe it was just me, but after the -- after</b></p> <p>7 <b>the cash register incident a lot of things just started</b></p> <p>8 <b>being like toward me personally and I didn't feel like</b></p> <p>9 <b>I should be here no more, but I was look okay, I'm</b></p> <p>10 <b>going to try to stay here, I'm going to try to stay</b></p> <p>11 <b>here, because I was -- I was happy with my job, you</b></p> <p>12 <b>know, but --</b></p> <p>13 Q. Let -- let me go back to the cash register</p> <p>14 incident or incidents. There was four separate times,</p> <p>15 correct, --</p> <p>16 <b>A. Uh-huh.</b></p> <p>17 Q. -- that your cash register --</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. -- came up short?</p> <p>20 <b>A. Uh-huh.</b></p> <p>21 Q. Do you recall at what time period these cash</p> <p>22 register shortages occurred?</p> <p>23 MR. JANNEY: Wait, wait, wait. That she</p> <p>24 was told there were cash register shortages or that --</p> <p>25 or that cash register shortages actually occurred?</p> <p style="text-align: right;">Page 25</p>	<p>1 Q. And that was Mr. Cardinal you said?</p> <p>2 <b>A. That was Ashley Johnson told me that from</b></p> <p>3 <b>Mr. Cardinal.</b></p> <p>4 Q. Did all four of the cash register shortages</p> <p>5 occur in the January 2008 time frame?</p> <p>6 <b>A. I believe so.</b></p> <p>7 Q. Were they spread throughout the month or were</p> <p>8 they all -- did they occur in one week? Do you have</p> <p>9 any recollection of that?</p> <p>10 <b>A. No. I was just told that -- they -- they</b></p> <p>11 <b>would tell me on several occasions, well, this is not</b></p> <p>12 <b>the first time your -- your register came up short.</b></p> <p>13 Q. Who said that?</p> <p>14 <b>A. The different managers, but they never told me</b></p> <p>15 <b>what days they -- they came up short, so I wasn't</b></p> <p>16 <b>knowing. I just know that I came up short. When the</b></p> <p>17 <b>investigation actually started is when she started</b></p> <p>18 <b>actually telling me that my register came up short.</b></p> <p>19 Q. When did you start working at Green Hills?</p> <p>20 <b>A. November the 16th, I believe, 1998, '97 --</b></p> <p>21 <b>2007.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. I went too far back.</b></p> <p>24 Q. Was Mr. Isaac working there at that time when</p> <p>25 you started to work there?</p> <p style="text-align: right;">Page 27</p>
<p>1 There's a difference.</p> <p>2 BY MR. BAGGETT:</p> <p>3 Q. Do you know when these short -- these cash</p> <p>4 register shortages --</p> <p>5 MR. BAGGETT: Let me back up. She</p> <p>6 testified that the day after that she had a shortage,</p> <p>7 she was told that there was a cash register shortage.</p> <p>8 BY MR. BAGGETT:</p> <p>9 Q. So my question to you is do you know when --</p> <p>10 <b>A. I was told --</b></p> <p>11 Q. -- or what dates, what time of the year, what</p> <p>12 month and dates, to the best of your knowledge, these</p> <p>13 cash register shortages occurred?</p> <p>14 <b>A. They started in -- they -- I want to say the</b></p> <p>15 <b>middle of January.</b></p> <p>16 Q. Of 2008?</p> <p>17 <b>A. Uh-huh. Yes. That's when I was approached.</b></p> <p>18 <b>Well, I was told that I had been coming up short and I</b></p> <p>19 <b>was asked did I know why and I was told -- I told them</b></p> <p>20 <b>no.</b></p> <p>21 Then Stephen Cardinal had called Ashley</p> <p>22 Johnson out and told her to tell me, to let me know</p> <p>23 that my register had been coming up short and it was an</p> <p>24 investigation going on because they were trying to get</p> <p>25 to the bottom of it.</p> <p style="text-align: right;">Page 26</p>	<p>1 <b>A. I believe so.</b></p> <p>2 Q. Okay. Prior to January 2008 when the cash</p> <p>3 register shortages started occurring, characterize your</p> <p>4 relationship with Mr. Isaac.</p> <p>5 <b>A. I thought it was a okay relationship. I mean,</b></p> <p>6 <b>we used to sit and joke and talk and all that.</b></p> <p>7 Q. The -- the two of you got along?</p> <p>8 <b>A. Yes, we did.</b></p> <p>9 Q. Did you ever talk to him about things other</p> <p>10 than work?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Prior to you overhearing Mr. Isaac refer to</p> <p>13 you, Meca, and TT as monkeys, had you had any issue</p> <p>14 with the way that Mr. Isaac treated you or other</p> <p>15 African Americans?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Okay. So your testimony is that prior -- let</p> <p>18 me back up. When did you say that the monkey comment</p> <p>19 occurred? You may not know.</p> <p>20 <b>A. I believe that -- was it -- it was between</b></p> <p>21 <b>January and February because all -- everything started</b></p> <p>22 <b>happening together.</b></p> <p>23 Q. Prior to the January/February time frame, so</p> <p>24 November/December, I mean, --</p> <p>25 <b>A. No.</b></p> <p style="text-align: right;">Page 28</p>



<p>1 Q. Okay. But you and Mr. Isaac got along?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. When you heard Mr. -- when you</p> <p>4 overheard Mr. Isaac make these comments about the</p> <p>5 monkeys in the zoo you had -- prior to that comment you</p> <p>6 had a good relationship with him, right?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Did it ever occur to you to go talk to</p> <p>9 Mr. Isaac about what you overheard him say?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Did you ever think that you -- it -- it would</p> <p>12 have been -- it would have been a good idea for you to</p> <p>13 talk to him to see what he meant?</p> <p>14 <b>A. No.</b></p> <p>15 Q. You just assumed at that point that it was a</p> <p>16 racial comment?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. The -- the -- the third thing that you</p> <p>19 mentioned when we were talking about the conversations</p> <p>20 that you had with Ms. Brothers was that, and -- and I</p> <p>21 didn't quite understand so I want to get you to help we</p> <p>22 with it, was that you would work your butt off and --</p> <p>23 as a cashier and -- and something about cleaning the</p> <p>24 bathrooms and things like that. Can you help me with</p> <p>25 that?</p> <p style="text-align: right;">Page 29</p>	<p>1 <b>was like the managers would mostly be up there.</b></p> <p>2 Q. So why did you think that you being asked</p> <p>3 to -- to clean the bathrooms and the lobby --</p> <p>4 <b>A. Because it was -- it was -- I'm sorry.</b></p> <p>5 Q. Let me finish. -- was motivated by any type</p> <p>6 of racial discrimination?</p> <p>7 <b>A. Because it was a everyday thing. It was every</b></p> <p>8 <b>day. I could come in and start on prep or whatever and</b></p> <p>9 <b>there'd be five men standing behind me, Dominique, go</b></p> <p>10 <b>take out the trash.</b></p> <p>11 Q. Now, you think you were being discriminated</p> <p>12 because you were black or because you were a woman?</p> <p>13 <b>A. Both, really. They knew I could -- they knew</b></p> <p>14 <b>I could lift over that trash can for one. They knew I</b></p> <p>15 <b>could take that trash out for two. But every day it</b></p> <p>16 <b>was always me. It was me doing everything that the men</b></p> <p>17 <b>was supposed to do or either the cash register people</b></p> <p>18 <b>was supposed to do or you could drop (SIC) the people</b></p> <p>19 <b>it was supposed to be.</b></p> <p>20 Q. And -- and who would tell you to do these</p> <p>21 things?</p> <p>22 <b>A. John Isaac or either he would have one of the</b></p> <p>23 <b>other shift leaders or either the other managers to</b></p> <p>24 <b>tell me to do that.</b></p> <p>25 Q. And who would they be?</p> <p style="text-align: right;">Page 31</p>
<p>1 <b>A. No. It -- after I was asked to be pulled off</b></p> <p>2 <b>the register --</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. -- I was told -- well, first -- first I was</b></p> <p>5 <b>asked -- I asked because -- because my register was</b></p> <p>6 <b>coming up short could I be pulled off the register. I</b></p> <p>7 <b>was told no. Then Steve was like -- Steve had told me</b></p> <p>8 <b>that yes, I could be moved and trained somewhere else,</b></p> <p>9 <b>so I was training on a different station. I would be</b></p> <p>10 <b>called from, well, the station I was at to go clean the</b></p> <p>11 <b>lobby, go take out the trash, go do the bathroom, I</b></p> <p>12 <b>mean, just anything off the wall, and I had been there</b></p> <p>13 <b>all day and whoever -- the people at the register just</b></p> <p>14 <b>be standing there.</b></p> <p>15 Q. So whose job was it typically to clean the</p> <p>16 bathrooms?</p> <p>17 <b>A. The cashiers --</b></p> <p>18 Q. Okay. And what --</p> <p>19 <b>A. -- and the lobby person.</b></p> <p>20 Q. Okay. And wasn't it your testimony earlier</p> <p>21 that all the other cashiers on your shift were black?</p> <p>22 <b>A. That was during my time when I was a</b></p> <p>23 <b>cashier, --</b></p> <p>24 Q. Okay.</p> <p>25 <b>A. -- but during the time I wasn't a cashier it</b></p> <p style="text-align: right;">Page 30</p>	<p>1 <b>A. Ashley Johnson and MaryAnn Brothers.</b></p> <p>2 Q. If Ms. Brothers were to ask you to go take the</p> <p>3 trash out would that -- would you consider that to be</p> <p>4 racially motivated?</p> <p>5 <b>A. Yes. I asked her why, why I always got to be</b></p> <p>6 <b>the one to do it.</b></p> <p>7 Q. And what did she say?</p> <p>8 <b>A. She would just always say I don't know.</b></p> <p>9 <b>Just -- John told me to tell you to do it, and Ashley</b></p> <p>10 <b>say the same. I don't know why, but just -- just go do</b></p> <p>11 <b>it. I was like, no, well, just fine. I'll do it.</b></p> <p>12 Q. Did you think you did a good job at cleaning</p> <p>13 the bathrooms and cleaning up the lobby?</p> <p>14 <b>A. Yes. I knew if I didn't I was going to have</b></p> <p>15 <b>to go back and do it again.</b></p> <p>16 Q. Is it possible that the management wanted you</p> <p>17 to do this task because you were the best at it?</p> <p>18 <b>MR. JANNEY: Objection to form.</b></p> <p>19 <b>Speculation.</b></p> <p>20 <b>A. I don't know what they thought, but I wasn't</b></p> <p>21 <b>fixing to -- I don't know what they thought, but I just</b></p> <p>22 <b>thought that was my job to do every day because they</b></p> <p>23 <b>had -- they had people assigned to this every day. If</b></p> <p>24 <b>they wanted me to do this every day I should have been</b></p> <p>25 <b>assigned for it every day.</b></p> <p style="text-align: right;">Page 32</p>

<p>1 BY MR. BAGGETT:</p> <p>2 Q. Did -- did you ever raise this concern with</p> <p>3 Mr. Isaac that --</p> <p>4 A. Yes.</p> <p>5 Q. And -- and when was that?</p> <p>6 A. After about a week I was doing it every day.</p> <p>7 Q. And -- and do you have a time frame estimate</p> <p>8 for me?</p> <p>9 A. I'm going to say -- I want to say it was</p> <p>10 around the second week in February.</p> <p>11 Q. And -- and tell me about that conversation</p> <p>12 that you had with Mr. Isaac.</p> <p>13 A. I asked him, I said -- what was the</p> <p>14 conversation? He was asking me how -- how I was doing,</p> <p>15 how everything was going, and I was like I'm all right,</p> <p>16 but I have a question. He was like what is your</p> <p>17 question? And I told him, I said, I don't feel like</p> <p>18 it's right for me to have to come in and do -- let me</p> <p>19 back back. I asked him all day is it right that I'm</p> <p>20 one of the first people that are hit every day, maybe</p> <p>21 six times out of a week, six days out of a week, doing</p> <p>22 everything that you-all ask me to do, and I just feel</p> <p>23 like I'm being used. He asked me why did I feel like</p> <p>24 that, and I said because I'm the only person doing the</p> <p>25 lobby and the bathrooms and the trash cans, but you got</p> <p style="text-align: right;">Page 33</p>	<p>1 Q. Do you agree that it's important at Five Guys</p> <p>2 for the bathroom to be clean?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And do you also agree that it's -- it's</p> <p>5 critical for there to be an employee to -- to clean the</p> <p>6 bathroom to ensure that it's clean for the guests?</p> <p>7 A. Uh-huh. Yes.</p> <p>8 Q. Now, let's -- let's shift gears a little here.</p> <p>9 Are you currently employed?</p> <p>10 A. No.</p> <p>11 Q. When you left -- when your -- when your</p> <p>12 employment with Nashville Five Guys or Five Guys ceased</p> <p>13 have you been employed since then?</p> <p>14 A. Yes.</p> <p>15 Q. Where?</p> <p>16 A. At the Rochelle Center and Mapco Express.</p> <p>17 Q. Are those the only two places?</p> <p>18 A. Yes.</p> <p>19 Q. What is the Rochelle Center?</p> <p>20 A. It's a center where people with medical</p> <p>21 disabilities -- well, the part I worked in people with</p> <p>22 medical disabilities was going in there and doing</p> <p>23 like -- I guess you would say learning skills, learning</p> <p>24 skills as to working, working like in the factory</p> <p>25 maybe, sort of speak.</p> <p style="text-align: right;">Page 35</p>
<p>1 everybody that's here that's supposed to be doing it.</p> <p>2 He was like, well, I didn't know you felt like that. I</p> <p>3 said, well, I do. So I thought that was going to be</p> <p>4 the end of it, but it wasn't. I would still end up</p> <p>5 doing the same thing over and over and over again.</p> <p>6 Q. Did any other employees ever clean the</p> <p>7 bathrooms while you were working?</p> <p>8 A. Maybe once or twice.</p> <p>9 Q. Let me ask you this. How often do the</p> <p>10 bathrooms need to be cleaned at Five Guys?</p> <p>11 A. Before opening, every time -- I'm going to say</p> <p>12 somebody was -- was supposed to go in the bathrooms</p> <p>13 every hour.</p> <p>14 Q. And did you go to the bathroom every hour</p> <p>15 and -- and clean the bathroom each and every day?</p> <p>16 A. Majority of the time, yes. Not -- not -- I'm</p> <p>17 not going to say every day, but like maybe four days</p> <p>18 out of a week I was.</p> <p>19 Q. But there were other individuals that -- that</p> <p>20 were asked to clean the bathroom?</p> <p>21 A. That -- when they was assigned to it. And</p> <p>22 like if I was on -- like I say, I was on the -- the</p> <p>23 topping then they know I couldn't move, so, therefore,</p> <p>24 somebody else, whoever was assigned to the lobby and</p> <p>25 the bathroom, do the -- the lobby and the bathroom.</p> <p style="text-align: right;">Page 34</p>	<p>1 Q. What was your position there?</p> <p>2 A. I was a -- I don't -- what was I? They had a</p> <p>3 name for it. I'm not for sure the name, but --</p> <p>4 Q. Would -- would part-time direct support</p> <p>5 assistant sound right?</p> <p>6 A. Yes, something like that.</p> <p>7 Q. Okay. When -- when did you start employment</p> <p>8 at the Rochelle Center, do you recall?</p> <p>9 A. No.</p> <p>10 (Deposition Exhibit 1 marked.)</p> <p>11 BY MR. BAGGETT:</p> <p>12 Q. Ms. Bell, have you seen this document before?</p> <p>13 A. No.</p> <p>14 Q. Okay. Let me ask you a question real quick.</p> <p>15 Did -- how did your employment at Rochelle Center</p> <p>16 cease? Did you voluntarily resign or were you</p> <p>17 terminated?</p> <p>18 A. Actually, I -- I really don't know because I</p> <p>19 was going back and forth to the hospital and I had</p> <p>20 called out one day and they told me to call back the</p> <p>21 next day. Actually -- actually, it was both just to be</p> <p>22 honest. I was quit and then I also had told them I had</p> <p>23 to -- I had -- I told them that I had to quit and they</p> <p>24 also told me just don't worry about it, they'll just</p> <p>25 let me go, so both I imagine.</p> <p style="text-align: right;">Page 36</p>

<p>1 Q. Ms. Bell, I'm going to represent that this is 2 a document that we received from the Rochelle Center in 3 response to a subpoena that we issued. This document 4 has been provided and produced to your attorneys 5 although it doesn't possess a -- a Bates stamp. On -- 6 on -- on the first page there's a cover letter that 7 says -- it's got their emblem, Rochelle Center, and it 8 says that Ms. Dominique Bell, based on -- let me back 9 up. 10 The Rochelle Center, a private non-profit 11 organization providing services and supports to adults 12 with disabilities, employed Ms. Dominique Bell as a 13 part-time direct support assistant from July 23rd, 2008 14 until her termination on August 14th, 2008. 15 Would you agree that your employment started 16 there on July 23rd, 2008? 17 <b>A. Yes.</b> 18 Q. Okay. And would you agree that your 19 employment ceased on or about August 14th, 2008? 20 <b>A. Yes.</b> 21 Q. Do you agree that you were terminated based on 22 reading this? 23 <b>A. Yes. Yes.</b> 24 Q. Did you make more money at -- at Five Guys or 25 at the Rochelle Center, on a weekly basis?</p> <p style="text-align: right;">Page 37</p>	<p>1 Q. Okay. And suggestions for corrective action, 2 this says none. Employee is terminated from 3 employment. Is that correct? 4 <b>A. Yes.</b> 5 Q. Okay. And there's actually a spot there for 6 you to put -- to -- to make comments, and you didn't 7 make any comments; is that correct? 8 <b>A. Right.</b> 9 Q. Did you disagree with anything in this 10 disciplinary notice when it was issued to you? 11 <b>A. This right here? I mean, I couldn't because I</b> 12 <b>was -- I knew that I was going back and forth to the</b> 13 <b>doctor, so ain't no sense to try and dispute it.</b> 14 Q. Okay. Earlier you mentioned that -- you 15 mentioned a health condition. What health condition 16 were you referring to? 17 <b>A. I have diabetes and sickle cell.</b> 18 Q. How long have you been diagnosed with 19 diabetes? 20 <b>A. Since 1999.</b> 21 Q. Are you on insulin? 22 <b>A. I'm off and on. I was for a minute, but not</b> 23 <b>anymore.</b> 24 Q. Should you be on insulin or the doctor has 25 said that you don't need to be on insulin now?</p> <p style="text-align: right;">Page 39</p>
<p>1 <b>A. On a weekly basis? Five Guys.</b> 2 Q. Have you had a chance to look through these 3 documents? 4 <b>A. I'm looking.</b> 5 Q. Take your time. After reviewing these 6 documents, and -- and I know you've -- you've looked at 7 the first page and said that you would agree that you 8 were terminated, after reviewing the rest of the 9 documents do you still agree that you were terminated 10 from the Rochelle Center? 11 <b>A. I mean, I guess. They sent me a separation</b> 12 <b>notice saying --</b> 13 Q. While you were employed at the Rochelle 14 Center, I'm looking at the fourth page, were you 15 provided with a disciplinary notice? 16 <b>A. Uh-huh.</b> 17 Q. Is that your signature at the bottom? 18 <b>A. Uh-huh.</b> 19 MR. JANNEY: Verbalize. 20 THE WITNESS: Yes. Sorry. 21 BY MR. BAGGETT: 22 Q. Okay. And this document states that you were 23 on a probationary period for 26 days and there's a 24 check next to termination, correct? 25 <b>A. Yes.</b></p> <p style="text-align: right;">Page 38</p>	<p>1 <b>A. I don't need to be on insulin now.</b> 2 Q. The same question with sickle cell. How long 3 have you been diagnosed with sickle cell? 4 <b>A. Since I was in the 10th grade. It was -- I'm</b> 5 <b>going to say '94, '95.</b> 6 Q. Okay. So according to this document from 7 Rochelle Center you were employed from July of -- July 8 23rd, 2008 till August 14th, 2008. 9 When did you start working at Mapco Express. 10 You can push that aside. We don't need that now. 11 There's nothing in there about Mapco Express? 12 <b>A. No.</b> 13 Q. Okay. 14 <b>A. Oh, Mapco Express, I started working there in</b> 15 <b>October, I believe, October or November of 2007,</b> 16 <b>2000 -- 2008.</b> 17 Q. And what is Mapco Express? 18 <b>A. It's a gas station.</b> 19 Q. And -- and why did you leave Mapco Express? 20 <b>A. Because I have blood clots in my legs and</b> 21 <b>could no longer stand up -- up on my legs like that.</b> 22 Q. So you voluntarily resigned? 23 <b>A. Yes.</b> 24 Q. What was your position at Mapco Express? 25 <b>A. Cashier.</b></p> <p style="text-align: right;">Page 40</p>

1 Q. And what was the cause of you getting blood  
2 clots in your legs?  
3 **A. I haven't the slightest idea.**  
4 Q. Now, did you see a doctor regarding these  
5 blood clots?  
6 **A. Yes.**  
7 Q. Did the doctor give you any type of diagnosis  
8 regarding the blood clots?  
9 **A. No.**  
10 Q. Was it caused by standing?  
11 **A. They said that it could be caused by standing,**  
12 **but the cause of it they never -- they never came to a**  
13 **conclusion.**  
14 Q. And as a cashier at Mapco Express were you  
15 standing a lot?  
16 **A. Yes.**  
17 Q. After you left Mapco in February of 2009 what  
18 have you done since then to seek new employment?  
19 **A. I put in applications over the Internet.**  
20 **That's about it.**  
21 Q. To where?  
22 **A. To temp agencies and -- temp agencies.**  
23 Q. What temp agencies?  
24 **A. All Star, what -- All Star and a place -- a**  
25 **place called Maximum, Maximus.**

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1 Q. When did you apply to All Star?  
2 **A. Last month.**  
3 Q. How about to Maximus?  
4 **A. The same day.**  
5 Q. Did you hear anything back from either of  
6 those --  
7 **A. No.**  
8 Q. -- organizations?  
9 **A. No.**  
10 Q. What type of position were you looking for?  
11 **A. Clerical at All Star and at Maximus they have**  
12 **the -- the medical part, so I was going for medical.**  
13 Q. Did you fill out any type of job applications  
14 with these --  
15 **A. The on line application, yes.**  
16 Q. Do you have any copies of those applications?  
17 **A. No.**  
18 Q. Okay. On those on line applications did it  
19 ask what type of salary you were looking for?  
20 **A. No. It was like -- it wasn't a full**  
21 **application. It was just a mini application.**  
22 Q. And you didn't hear back from either one of  
23 them --  
24 **A. No.**  
25 Q. -- in response to your application?

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1 **A. No.**  
2 Q. Other than these two temp agencies that you  
3 applied to in April of 2009 on the same day, have you  
4 applied to any other employers seeking employment?  
5 **A. No.**  
6 Q. Are you able to work currently?  
7 **A. Really, I'm not, but I still try to get jobs**  
8 **that I can -- know I can like sit down and do like data**  
9 **entry, jobs like that, but as far as standing all day,**  
10 **no.**  
11 Q. Okay. Let -- let me clarify -- let me attempt  
12 to clarify. Is it your testimony that you can't work  
13 in a position that stands?  
14 **A. Right.**  
15 Q. But you can work in a position that doesn't  
16 require you to be on your feet; --  
17 **A. Right.**  
18 Q. -- is that accurate? So a clerical position  
19 that you'd be sitting down for the majority of the day  
20 would be a position that you could handle?  
21 **A. Right.**  
22 Q. On either of these applications that you  
23 filled out for All Star and Maximus did they ask why  
24 your employment with Nashville Five Guys ended?  
25 **A. No. They didn't go that far into detail.**

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1 Q. Do you believe race played a factor in your  
2 termination from Rochelle Center?  
3 **A. Yes.**  
4 Q. You do?  
5 **A. Yes.**  
6 Q. Are you planning on filing an EEOC against the  
7 Rochelle Center?  
8 **A. At the Rochelle Center? No, no.**  
9 Q. So your testimony is --  
10 **A. I'm sorry.**  
11 Q. -- that you're -- not only are you not  
12 planning to file an EEOC charge, but you're not -- you  
13 don't believe that race played a factor?  
14 **A. No.**  
15 Q. Okay. I believe your testimony was, Ms. Bell,  
16 that you were employed with Five Guys from November of  
17 '07 to April of '08; is that correct, and if it wasn't  
18 your testimony we haven't addressed it. Do those dates  
19 sound accurate?  
20 **A. I believe -- I believe so.**  
21 Q. Who hired you at Five Guys?  
22 **A. Randy.**  
23 Q. That would be Mr. Randy Williams?  
24 **A. Yes.**  
25 Q. And is Mr. Williams the GM at the Green Hills

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<p>1 store, I'm sorry, at the --</p> <p>2 <b>A. I was at the Green Hills store.</b></p> <p>3 Q. I'm sorry. Who is Mr. Williams?</p> <p>4 <b>A. He was -- I don't know if he was the GM or</b></p> <p>5 <b>not. I know he was one of the managers. He wasn't</b></p> <p>6 <b>there that long. But I -- I believe he is -- he was</b></p> <p>7 <b>the GM at the time, I believe.</b></p> <p>8 Q. Okay. He was the GM at the Green Hills</p> <p>9 store --</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. -- when you started working?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Were you hired into the cashier position or</p> <p>14 was that -- was there a the specific position that you</p> <p>15 were hired into?</p> <p>16 <b>A. It was a crew.</b></p> <p>17 Q. Okay. Did you ever receive any training as a</p> <p>18 new employee at Five Guys?</p> <p>19 <b>A. Yes. They brought in some trainers from</b></p> <p>20 <b>Virginia, I believe, and trained us.</b></p> <p>21 Q. Did any of these trainers talk to you or any</p> <p>22 other employees, to the best of your knowledge,</p> <p>23 regarding anything pertaining to discrimination in the</p> <p>24 workplace?</p> <p>25 <b>A. No.</b></p> <p style="text-align: right;">Page 45</p>	<p>1 <b>A. I believe it was John Issac, I believe.</b></p> <p>2 Q. During your tenure at Five Guys were there</p> <p>3 occasions when you failed to call in to work when you</p> <p>4 weren't going to be able to make it to work?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Were there occasions when you were employed at</p> <p>7 Five Guys when you were going to be late and you failed</p> <p>8 to call in?</p> <p>9 <b>A. No.</b></p> <p>10 Q. I mean, are you sure or are you -- is that --</p> <p>11 <b>A. Yes, I'm sure.</b></p> <p>12 Q. Okay. Did you ever have a problem with</p> <p>13 getting to work on time?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Did anyone ever tell you that you had a</p> <p>16 problem in getting to work on time?</p> <p>17 <b>A. No. I was told after I had got terminated</b></p> <p>18 <b>that I had a problem getting to work on time.</b></p> <p>19 Q. Have you ever received a voice mail from</p> <p>20 Mr. Isaac leaving you messages saying where are you?</p> <p>21 <b>A. No.</b></p> <p>22 Q. You're supposed to be at work, you're not</p> <p>23 here, nothing along those lines?</p> <p>24 <b>A. Not that I can recall, no.</b></p> <p>25 Q. So your testimony is that Mr. Isaac has never</p> <p style="text-align: right;">Page 47</p>
<p>1 Q. Did you receive a -- an employee handbook when</p> <p>2 you started working?</p> <p>3 <b>A. No.</b></p> <p>4 Q. At any time during your employment at Five</p> <p>5 Guys have you received an employee handbook?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Has anybody even mentioned an employee</p> <p>8 handbook to you?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Okay. You have no knowledge as to whether</p> <p>11 there was a -- an employee handbook in the store that</p> <p>12 all employees would review at their leisure?</p> <p>13 <b>A. No. If there was I don't remember it.</b></p> <p>14 Q. You have no knowledge as to whether it's a</p> <p>15 requirement for employees to -- to be familiar with the</p> <p>16 policies and procedures of the employee handbook; is</p> <p>17 that correct?</p> <p>18 <b>A. Correct. If it was I don't remember that.</b></p> <p>19 Q. Did you work at the Green Hills store the</p> <p>20 entire time you were employed at Five Guys?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Was there a time that Mr. Williams was not</p> <p>23 your GM?</p> <p>24 <b>A. Yes. He left or he went somewhere.</b></p> <p>25 Q. Okay. And who replaced him as GM?</p> <p style="text-align: right;">Page 46</p>	<p>1 left you a voice mail, to the best of your</p> <p>2 recollection, where in that voice mail he was</p> <p>3 addressing some type of attendance or tardiness issue?</p> <p>4 <b>A. Not that I recall, no.</b></p> <p>5 Q. Do you know LaShonda Jackson?</p> <p>6 <b>A. Yes, I do.</b></p> <p>7 Q. How do you know LaShonda?</p> <p>8 <b>A. She was my best friend.</b></p> <p>9 Q. She was your best friend?</p> <p>10 <b>A. Yes, she was.</b></p> <p>11 Q. What happened?</p> <p>12 <b>A. She started kissing up to Mr. Issac.</b></p> <p>13 Q. And you didn't like her being friends with</p> <p>14 Mr. Isaac?</p> <p>15 <b>A. I -- me and her, we -- we still continued to</b></p> <p>16 <b>talk until like two weeks ago.</b></p> <p>17 Q. So you and Ms. Jackson were best friends --</p> <p>18 <b>A. Uh-huh.</b></p> <p>19 Q. -- and then that relationship changed because</p> <p>20 she was friendly with Mr. Isaac?</p> <p>21 <b>A. No. It changed because she showed a</b></p> <p>22 <b>difference towards me, not just because of Mr. Isaac.</b></p> <p>23 <b>It was like she would come to me talking about me and</b></p> <p>24 <b>John did, me and -- I don't want to hear about that</b></p> <p>25 <b>because I'm no longer with them, so don't tell me</b></p> <p style="text-align: right;">Page 48</p>

1 nothing about them. But then she would get to the  
2 point where -- when it first began we started  
3 working -- we started working there together. When she  
4 was at work I watched her kids. She stayed with me.  
5 But then after I stopped working there -- well, she  
6 went on maternity leave, came back, she -- she started  
7 changing then. Then it was a -- a incident where I had  
8 to call out. I talked to Mr. Newman, asked him to let  
9 me speak to John, told John I would not be able to come  
10 in today. He said, okay, just call me tomorrow and I  
11 give you a schedule.  
12 Well, come to find out the next day I called  
13 and I was -- had been -- I was told they no longer  
14 need -- needed me. About two days after that I was  
15 told that, Ms. Jackson was sitting there with me while  
16 I was sick, had told Mr. Isaac that she didn't hear me  
17 tell him that. That's why I was terminated. Then a  
18 couple hours later she came back to me and told me that  
19 she was told that I quit. So we don't have that kind  
20 of relationship anymore.  
21 Q. That was a lot. Let me back up and kind of  
22 break this down.  
23 Is Ms. Jackson African American?  
24 A. Uh-huh.  
25 Q. Did you live with her at some point in time?

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1 A. No, she live with me.  
2 Q. Oh, it was the -- you-all lived together?  
3 A. Yes.  
4 Q. Okay. Would you and Ms. Jackson ride to work  
5 together on occasion?  
6 A. Yes.  
7 Q. So -- so -- so walk me through this -- this  
8 incident where you needed to call out and you spoke  
9 with Mr. Newman. Walk -- help me understand that.  
10 Just walk me through it.  
11 A. It was a Saturday morning. I had got up, did  
12 not feel good, called into work. Jim Newman answered  
13 the phone. Said, Jim let me -- is John there? He say,  
14 yes. Hold on. What's wrong? I said I don't feel  
15 good. Let me speak to John because I ain't going to be  
16 able to come in. And John got on the phone. John, I  
17 don't feel good. Maybe if I feel better later on I  
18 come it. Well, don't worry about, Dom. Just call me  
19 later on, or you can call me tomorrow and I'll give you  
20 your schedule for next week.  
21 Called him back that Sunday and I was told  
22 that he no longer needed me.  
23 Q. What time were you scheduled to work on this  
24 Saturday, do you recall?  
25 A. I was scheduled to be there at 10:00 o'clock.

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1 Q. What time did you call?  
2 A. 8:00 o'clock.  
3 Q. You called at 8:00 a.m.?  
4 A. Yes.  
5 Q. Was it typical for there to be people at the  
6 store at 8:00 a.m.?  
7 A. Yes.  
8 Q. Okay. Now, what did LaShonda say that made  
9 you upset or did --  
10 A. She -- later on that evening she -- well, I  
11 was told by LaShonda -- well, no, I was told by someone  
12 that worked at Five Guys. Who told me that? An  
13 employee of Five Guys came back and told me that  
14 LaShonda had told John Issac that -- he asked her why  
15 did I call out. She told him I ain't know nothing  
16 about her calling out. Then it was -- I didn't -- I  
17 was sitting there with her and I didn't hear her call  
18 out.  
19 Q. Why would Ms. Jackson lie?  
20 A. I don't know.  
21 Q. And you're certain that you called in and  
22 spoke with Mr. Newman on that day?  
23 A. Yes, I am.  
24 Q. And you're certain that you spoke to Mr. Isaac  
25 on that day?

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1 A. Yes, I am.  
2 Q. And Ms. Jackson was with you that entire time?  
3 A. She was sitting right next to me on my couch.  
4 Q. Earlier you -- you were saying that one of the  
5 issues that you had with Ms. Jackson was that she and  
6 Mr. Isaac, they were -- they were close and had a good  
7 relationship or something along those lines.  
8 A. That -- she started changing once she came  
9 back off of maternity leave with Mr. Isaac and I  
10 don't -- I don't know. She kind of like pushed me to  
11 the side, but that's not really why -- why me and  
12 her -- why I lost interest in her, or whatever, because  
13 we was still talking to this day, well, till like two  
14 weeks ago we was still talking, but she would change to  
15 the point where -- she'll come -- come back and be  
16 like, well, you know, it's such and such and such being  
17 said and, you know, you quit and you didn't get fired  
18 and stuff like that. I don't want to hear that. So my  
19 thing was she was trying to -- I thought she was trying  
20 to play me -- to get information out of me to go back  
21 and tell him. You know what I'm saying? That's how I  
22 felt.  
23 Q. So it's your testimony that Ms. Jackson was  
24 telling other employees of -- of Five Guys that you  
25 were not terminated and that you quit?

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13 (Pages 49 to 52)

1 **A. That's what I was under the impression of**  
2 **because that's what she came back and told me.**  
3 Q. And Ms. Jackson told you that's what she had  
4 been telling people?  
5 **A. That's what she told me was told to her.**  
6 Q. Now, who -- do you know who told her that?  
7 **A. She told me that Mr. Isaac told her that I**  
8 **quit.**  
9 Q. So maybe I was confused and didn't understand  
10 what you were saying, but let me -- let me go back and  
11 make sure I'm clear.  
12 Did Ms. Jackson tell other people that you  
13 were not terminated, that you quit?  
14 **A. I don't know what she told other people. I**  
15 **know what she told me.**  
16 Q. Did she tell you that she told other people  
17 that you had quit?  
18 **A. She told me that it was told to her that I**  
19 **quit.**  
20 Q. I understand. That's -- my question is a  
21 different question. Did she tell you also that she had  
22 told other that you quit?  
23 **A. No.**  
24 Q. Okay. How would you characterize  
25 Ms. Jackson's relationship with Mr. Isaac? Are they

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1 friendly?  
2 **A. Every --**  
3 MR. JANNEY: Objection to form.  
4 **A. -- everybody was friendly to him. He would --**  
5 BY MR. BAGGETT:  
6 Q. Is Ms. Jackson friendly to -- to him?  
7 **A. Yes.**  
8 Q. Is Mr. Isaac friendly to her?  
9 **A. I don't know now.**  
10 Q. While -- while you were employed at the store  
11 did you have an occasion to observe Mr. Isaac and  
12 Ms. Jackson interacting with one another?  
13 **A. Yes.**  
14 Q. And were they friendly to one another?  
15 **A. Yes.**  
16 Q. Was it your opinion that Mr. Isaac and  
17 Ms. Jackson got along well with one another?  
18 **A. Yes.**  
19 Q. Do you have any reason to believe that  
20 Mr. Isaac discriminates against Ms. Jackson for her  
21 race?  
22 **A. I do not know because of when she was on**  
23 **maternity leave and when she -- well, when she came**  
24 **back from maternity leave is when I was terminated or**  
25 **quit as they -- terminated or quit or whichever one it**

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1 **was.**  
2 Q. Did you ever tell Ms. Jackson that you didn't  
3 feel like going to work and you weren't going to call  
4 in, you just weren't going to go to work?  
5 **A. No.**  
6 Q. You never had a conversation with Ms. Jackson  
7 that was anywhere similar to that?  
8 **A. No.**  
9 Q. Did you ever complain to Ms. Jackson while you  
10 were friends that you thought you were being  
11 discriminated on --  
12 **A. Yes.**  
13 Q. -- due to your race?  
14 **A. Yes.**  
15 Q. When was that?  
16 **A. I told her while she was on maternity leave.**  
17 Q. Where were you when you told her this?  
18 **A. At my house.**  
19 Q. And what did you say?  
20 **A. I told her that I didn't -- I felt like he**  
21 **was -- he was discriminating against me because of**  
22 **certain things that he would do.**  
23 Q. And what things did you explain to her that he  
24 would do?  
25 **A. Like when I was called a monkey, I told her**

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1 **about that incident. When I was being told to do the**  
2 **cash register, when -- when I was being told to -- to**  
3 **do the lobby and things like that, I told her about**  
4 **that. I told her about the cash register incident.**  
5 **She knew a lot about everything, a lot -- everything**  
6 **that I went through she knew about because she was my**  
7 **best friend. She was like my sister to me, so she knew**  
8 **everything.**  
9 Q. And did she have any opinion as to whether she  
10 agreed with you that you'd been discriminated against  
11 or did she say --  
12 **A. Yes, she was --**  
13 Q. -- at all?  
14 **A. -- she felt like that I was being**  
15 **discriminated against, but that's what she was just**  
16 **telling me, so I don't know what she told everybody**  
17 **else.**  
18 Q. Did Ms. Jackson ever tell you that she felt  
19 she was being discriminated against by anyone at Five  
20 Guys?  
21 **A. No.**  
22 Q. Going back to the -- the time period when you  
23 had called Mr. Newman to call out on that Saturday  
24 morning and you spoke to John, is it your testimony  
25 that the following day, that Sunday, is when Mr. Isaac

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<p>1 informed you that you were terminated?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. And what did Mr. Isaac tell you</p> <p>4 exactly?</p> <p>5 <b>A. He told me that don't worry about it. He</b></p> <p>6 <b>didn't need me anymore.</b></p> <p>7 Q. Did he say anything else?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Did you say anything else?</p> <p>10 <b>A. I said so what are you saying? He say just</b></p> <p>11 <b>don't worry about it. Just -- we don't need you</b></p> <p>12 <b>anymore. There right there is telling me what -- that</b></p> <p>13 <b>I'm fired. What else is there to say?</b></p> <p>14 Q. Well, how did that make you feel?</p> <p>15 <b>A. I felt hurt.</b></p> <p>16 Q. And you didn't ask him any questions as to why</p> <p>17 you were being let go?</p> <p>18 <b>A. No, because since January and February it was</b></p> <p>19 <b>like we didn't have a connection anymore. It was --</b></p> <p>20 <b>everything was also in a smart way.</b></p> <p>21 THE VIDEOGRAPHER: Going off the record.</p> <p>22 The time is 5:15.</p> <p>23 (Recess taken.)</p> <p>24 THE VIDEOGRAPHER: Here we go. We are</p> <p>25 back on the record. The time is 5:26.</p> <p style="text-align: right;">Page 57</p>	<p>1 Q. Okay.</p> <p>2 <b>A. I just know that they were fired.</b></p> <p>3 Q. How do you know that they were fired?</p> <p>4 <b>A. Because I was there when they got fired.</b></p> <p>5 Q. Who fired them?</p> <p>6 <b>A. Mr. Isaac.</b></p> <p>7 Q. Do you know why they were fired?</p> <p>8 <b>A. No, I don't.</b></p> <p>9 Q. Okay. Then how do you know that they were</p> <p>10 fired?</p> <p>11 <b>A. I -- because I was there the day they got</b></p> <p>12 <b>fired.</b></p> <p>13 Q. Well, what occurred -- what did you observe to</p> <p>14 make you draw the conclusion that they had been fired?</p> <p>15 <b>A. Because one of them -- one of them had came in</b></p> <p>16 <b>that day, I'm not for sure if it was Tim or Broderick,</b></p> <p>17 <b>and by the end of the shift something had happened and</b></p> <p>18 <b>he had came around the corner and was just mad or</b></p> <p>19 <b>something, and Mr. Isaac was like don't even worry</b></p> <p>20 <b>about it, don't even worry about it, and later on that</b></p> <p>21 <b>night I called to ask him was he okay and he like yes.</b></p> <p>22 <b>We just both got fired. Okay. You-all got fired. I</b></p> <p>23 <b>mean, they was -- it wasn't me, so I wasn't really</b></p> <p>24 <b>concerned about it. I just know that they got fired,</b></p> <p>25 <b>is what they told me.</b></p> <p style="text-align: right;">Page 59</p>
<p>1 BY MR. BAGGETT:</p> <p>2 Q. Ms. Bell, do you recall filing a charge with</p> <p>3 the EEOC?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. I've handed you a document that's been marked</p> <p>6 Bell Exhibit 2. Do you recognize this document?</p> <p>7 <b>A. Yes.</b></p> <p>8 <b>(Deposition Exhibit 2 marked.)</b></p> <p>9 BY MR. BAGGETT:</p> <p>10 Q. Is this the document that you filed with the</p> <p>11 EEOC?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And does your signature appear on this</p> <p>14 document?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. I want to draw your attention to that</p> <p>17 middle -- the second paragraph, the big paragraph. I</p> <p>18 want to start with the sentence that says TT, comma,</p> <p>19 Meca, comma, MaryAnn, and Jim all went to -- to a new</p> <p>20 store. Tim, black, and Broderick, black, and I were</p> <p>21 the only black employees left working in our store.</p> <p>22 John fired all three of us.</p> <p>23 What do you know about how Mr. -- or Tim and</p> <p>24 Broderick were terminated?</p> <p>25 <b>A. I really don't.</b></p> <p style="text-align: right;">Page 58</p>	<p>1 Q. So Tim and Broderick, one of them called you</p> <p>2 and told you that they had been fired?</p> <p>3 <b>A. I had called to check on Broderick, I believe</b></p> <p>4 <b>it was.</b></p> <p>5 Q. Do -- do you know Broderick or -- or Tim's</p> <p>6 last name?</p> <p>7 <b>A. No.</b></p> <p>8 Q. Were they related?</p> <p>9 <b>A. I thing they were Brothers.</b></p> <p>10 Q. But -- as you sit here today you don't know</p> <p>11 the -- the facts that led up to them --</p> <p>12 <b>A. And I don't know the facts.</b></p> <p>13 Q. Okay. Let -- let me finish the question.</p> <p>14 Okay. The question would be as you sit here today you</p> <p>15 don't know the facts or any of the facts that led to</p> <p>16 the separation of employment of Tim and Broderick; is</p> <p>17 that correct?</p> <p>18 <b>A. Right.</b></p> <p>19 Q. Is it your opinion that -- that Tim and</p> <p>20 Broderick were terminated based on their race?</p> <p>21 <b>A. I would say kind of because I've -- I've heard</b></p> <p>22 <b>comments being made.</b></p> <p>23 Q. Like what?</p> <p>24 <b>A. A -- about Broderick. He -- it was overheard</b></p> <p>25 <b>that he just a -- he just a lazy ass nigger. I've</b></p> <p style="text-align: right;">Page 60</p>



<p>1 <b>heard that once.</b></p> <p>2 Q. Who said that?</p> <p>3 <b>A. Mr. Isaac.</b></p> <p>4 Q. You -- you overheard that?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And -- and where were you when you overheard</p> <p>7 this?</p> <p>8 <b>A. I was in the store.</b></p> <p>9 Q. Where in the store?</p> <p>10 <b>A. On the toppings.</b></p> <p>11 Q. And it's your testimony that Mr. Isaac said</p> <p>12 that he was a lazy ass --</p> <p>13 <b>A. Nigger.</b></p> <p>14 Q. -- nigger? How did that make you feel?</p> <p>15 <b>A. I was just like whoa, but it was -- it didn't</b></p> <p>16 <b>come as a shock to me because I've heard him talk like</b></p> <p>17 <b>that before.</b></p> <p>18 Q. How many times have you heard him talk like</p> <p>19 that before?</p> <p>20 <b>A. Several occasions. I'm not for sure how many</b></p> <p>21 <b>times.</b></p> <p>22 Q. Was it Tim or Broderick that Mr. Isaac</p> <p>23 allegedly made that comment to?</p> <p>24 <b>A. It was Broderick because Broderick had hurt</b></p> <p>25 <b>his foot.</b></p> <p style="text-align: right;">Page 61</p>	<p>1 Q. And -- but you're -- you're sure that</p> <p>2 Mr. Isaac had said this?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. But you -- you don't know who else was there</p> <p>5 or who Mr. Isaac was speaking to?</p> <p>6 <b>A. The only person I knew that he was talking to</b></p> <p>7 <b>was Broderick, so if he wasn't talking to Broderick</b></p> <p>8 <b>he -- he might have been talking about me. I don't</b></p> <p>9 <b>know. I just know I heard maybe he's a lazy ass</b></p> <p>10 <b>nigger.</b></p> <p>11 Q. And what did you do after you heard this?</p> <p>12 <b>A. I went to -- to the cooler.</b></p> <p>13 Q. Did you tell anybody that Mr. Isaac had used</p> <p>14 this type of language?</p> <p>15 <b>A. Yes. I mean, I told them on several</b></p> <p>16 <b>occasions. I told MaryAnn -- no, I didn't -- yes, I</b></p> <p>17 <b>called MaryAnn Brothers because I believe she was at</b></p> <p>18 <b>the West End store during that time, and I told -- told</b></p> <p>19 <b>Ashley Johnson. Yes. Those are the only two that I</b></p> <p>20 <b>ever told anything to.</b></p> <p>21 Q. Why didn't you list this occurrence or -- or</p> <p>22 this issue with Mr. Isaac using this language in your</p> <p>23 EEOC charge?</p> <p>24 <b>A. Because the lady told me to only list things</b></p> <p>25 <b>that was concerning to me.</b></p> <p style="text-align: right;">Page 63</p>
<p>1 Q. Was Broderick there?</p> <p>2 <b>A. Huh?</b></p> <p>3 Q. Did Broderick overhear it?</p> <p>4 <b>A. Uh-uh.</b></p> <p>5 MR. JANNEY: Verbalize.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. BAGGETT:</p> <p>8 Q. And when you heard this statement by Mr. Isaac</p> <p>9 who else was in -- within earshot?</p> <p>10 <b>A. I'm not for sure because I was heading towards</b></p> <p>11 <b>the cooler and I didn't even look back.</b></p> <p>12 Q. Who was Mr. Isaac talking to, do you know?</p> <p>13 <b>A. I don't know.</b></p> <p>14 Q. Was he on the phone or --</p> <p>15 <b>A. No. He was -- actually, I was at the</b></p> <p>16 <b>toppings, I was going into the cooler, and Mr. Isaac</b></p> <p>17 <b>was like by the fry station, and I don't -- I don't</b></p> <p>18 <b>recall who -- who was around him, but I do know</b></p> <p>19 <b>Broderick had said something about his foot was still</b></p> <p>20 <b>hurting him, could he go home, or something, and</b></p> <p>21 <b>Broderick -- he told Broderick -- it was either are you</b></p> <p>22 <b>sure or do you think you can make -- stay for the rest</b></p> <p>23 <b>of the day, or something like that, and when I was</b></p> <p>24 <b>getting ready to turn around Broderick was going around</b></p> <p>25 <b>the cooler and he say he just a lazy ass nigger.</b></p> <p style="text-align: right;">Page 62</p>	<p>1 Q. So you weren't offended when you heard</p> <p>2 Mr. Isaac use that language?</p> <p>3 <b>A. Yes, I was offended, but it wasn't towards me.</b></p> <p>4 <b>She said if he wasn't talking towards me or to me then</b></p> <p>5 <b>it wasn't needed on the paper.</b></p> <p>6 Q. Okay. Who -- who was this lady at the EEOC,</p> <p>7 do you know?</p> <p>8 <b>A. It was the lady at the desk who told me to</b></p> <p>9 <b>write down -- who told me to fill out the charge paper.</b></p> <p>10 Q. And she was giving you advice on how to fill</p> <p>11 it out?</p> <p>12 <b>A. No. I had wrote down one and she told me</b></p> <p>13 <b>that -- that the one I had wrote at first would not be</b></p> <p>14 <b>admissible because a lot of stuff that was on there was</b></p> <p>15 <b>not pertaining to me.</b></p> <p>16 Q. She said admissible?</p> <p>17 <b>A. That's what -- she didn't say admissible.</b></p> <p>18 <b>That's the word I'm using. I'm not for sure what the</b></p> <p>19 <b>word she used.</b></p> <p>20 Q. Okay. What did this individual look like?</p> <p>21 Was it a female?</p> <p>22 <b>A. She was female.</b></p> <p>23 Q. A white female?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. What -- what did she look like?</p> <p style="text-align: right;">Page 64</p>

<p>1 <b>A. She was a white female. She was kind of -- I</b>  2 <b>want to say she was a little bit taller than me. She</b>  3 <b>had brown or auburn like hair pulled back into a</b>  4 <b>ponytail.</b>  5 Q. And that was at the Nashville EEOC office?  6 <b>A. Yes.</b>  7 Q. How did T -- excuse me. How did Tim and  8 Broderick getting fired by John relate to you?  9 <b>A. Because all -- all three of us had got fired,</b>  10 <b>and when I was getting interviewed --</b>  11 Q. When did you -- when do you think Mr. Isaac  12 made this comment? You said that you believe that  13 MaryAnn was already at the West End store. I'm trying  14 to help you place the time. Do you have any idea what  15 month it would be?  16 <b>A. No, I don't.</b>  17 Q. Okay. Did you ever tell Mr. Cardinal?  18 <b>A. No.</b>  19 Q. Was he still employed at that time,  20 Mr. Cardinal that is?  21 <b>A. I'm not for sure. I never went to him because</b>  22 <b>he was always in and out the store and most time when</b>  23 <b>he came I wasn't there, and plus I was used to talking</b>  24 <b>to MaryAnn and Ashley. I just felt comfort -- more</b>  25 <b>comfortable talking to them.</b></p> <p style="text-align: right;">Page 65</p>	<p>1 <b>A. Him just -- it wasn't just -- every time -- it</b>  2 <b>was like every time he got mad or caught a attitude</b>  3 <b>something like that will come out if he was talking to</b>  4 <b>a -- to a black person.</b>  5 Q. Well, we -- at -- at the beginning of the  6 deposition we were talking about you listening to -- to  7 things where -- or to incidents where you thought you  8 were discriminated against, specifically the one that  9 you had conversations with Ms. Brothers and you listed  10 those three things. You listed the zoo comment, the  11 cash shortages, and having to clean the bathrooms, --  12 <b>A. Uh-huh.</b>  13 Q. -- and -- and now, after we've covered that  14 you're adding this additional comment that John made.  15 <b>A. Because it wasn't toward me.</b>  16 Q. Okay. Well, --  17 <b>A. You asked me about what was toward me.</b>  18 Q. Okay. Well, let's -- let's open it up then.  19 What other comments did you hear from Mr. Isaac that  20 you thought were racially discriminatory?  21 <b>A. It was a high school student that was working</b>  22 <b>there. She didn't -- I don't know. I guess her check</b>  23 <b>wasn't there or it didn't have the -- her check wasn't</b>  24 <b>there or either didn't have enough hours on it, or</b>  25 <b>whatever, and she came in and she asked for a check and</b></p> <p style="text-align: right;">Page 67</p>
<p>1 Q. So did you -- you told -- your testimony is  2 you told MaryAnn Brothers about this lazy ass nigger  3 comment by Mr. Isaac?  4 <b>A. I believe so.</b>  5 Q. So you -- you don't recall whether you had  6 this conversation with Ms. Brothers?  7 <b>A. I -- I believe I do because I told her</b>  8 <b>about -- every time that I felt -- felt bad about</b>  9 <b>working.</b>  10 Q. Do you specifically recall having a  11 conversation with Ms. Brothers about this comment?  12 <b>A. Yes.</b>  13 Q. Okay. And what did Ms. Brothers say?  14 <b>A. She -- she -- she asked me was I sure. She</b>  15 <b>used to always ask me the same question, are you sure,</b>  16 <b>you sure you heard that? Yes, yes, yes. Well, how did</b>  17 <b>it make you feel? I said how it make me feel. And she</b>  18 <b>be like well, maybe he didn't mean it. Well, I said,</b>  19 <b>well, he didn't, but he keep on using the same kind of</b>  20 <b>comment, I said, and it -- it really makes me feel kind</b>  21 <b>of bad, you know what I'm saying, because of him saying</b>  22 <b>stuff like that, I said, but then again, maybe that's</b>  23 <b>just him talking like that, but then it got to the</b>  24 <b>point where it just got worse and worse and worse.</b>  25 Q. How did it get worse?</p> <p style="text-align: right;">Page 66</p>	<p>1 <b>Mr. Isaac said it wasn't there, and I -- I guess it</b>  2 <b>was -- it might have been she came in a week before her</b>  3 <b>check was supposed to been there or she was supposed to</b>  4 <b>be paid the next pay period or either she came in on</b>  5 <b>a -- a end of a pay period and supposed to get the</b>  6 <b>check the next pay period, but she kind of got upset</b>  7 <b>and he kind of got upset and said -- he use -- what</b>  8 <b>words did he use for her? He said something to the</b>  9 <b>point of something -- all these -- I'm trying to get it</b>  10 <b>right so I don't get it wrong.</b>  11 Q. What was the name of that person?  12 <b>A. I -- I don't know the little girl's name.</b>  13 Q. And she was at the West End store?  14 <b>A. No, I was never at the West End store.</b>  15 Q. I mean, --  16 <b>A. The Green Hills.</b>  17 Q. You said the Green Hills store.  18 <b>A. He said something to the point of all they ass</b>  19 <b>make me sick, or something, and I was fixing to call</b>  20 <b>the police on her -- on her ghetto ass or something</b>  21 <b>like that. It was some -- to the point of that, but</b>  22 <b>I'm not sure how he worded it.</b>  23 Q. What was the first part of that? I didn't  24 catch the first part of that statement.  25 <b>A. All they ass make me sick.</b></p> <p style="text-align: right;">Page 68</p>

1 Q. All --  
2 THE REPORTER: I'm sorry?  
3 THE WITNESS: All their asses make me  
4 sick.  
5 **A. I'm going to call the police on her and get**  
6 **her ass -- something -- something to that point.**  
7 BY MR. BAGGETT:  
8 Q. And are you -- are -- are you pretty sure  
9 that's what he said. Are you guessing? Are you  
10 speculating?  
11 **A. It was something to that, but I'm not sure of**  
12 **how he worded it.**  
13 Q. Okay.  
14 **A. But I know it was the same words, but I'm not**  
15 **sure if I'm putting the words in the right place.**  
16 Q. What words are you sure were said by  
17 Mr. Isaac?  
18 **A. He was tired of our asses and he was going to**  
19 **call the police on her.**  
20 Q. And when you heard that did you assume that  
21 when he referred to their asses he was referring to  
22 African Americans?  
23 **A. Either that or women. I mean, it was one of**  
24 **the two.**  
25 Q. Okay. So it could have been women --

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1 **A. Uh-huh.**  
2 Q. -- or it could have been --  
3 **A. It could have been African American, either**  
4 **women.**  
5 Q. All right.  
6 **A. One of those two.**  
7 Q. Could it be -- could it have been anything  
8 else?  
9 **A. No.**  
10 Q. Do you remember -- when was -- when did this  
11 occur?  
12 **A. When did she work there? I want to say -- I**  
13 **want to say the -- the middle of May towards the**  
14 **beginning of April, but she was only there for like a**  
15 **week and a half, so I'm not for sure really when she**  
16 **was there.**  
17 Q. What -- what -- what month did you say?  
18 **A. January, February, March -- March. The end --**  
19 **the middle of March to the beginning of April.**  
20 Q. Okay. And when you heard Mr. Isaac use this  
21 language referring to the ghetto and their asses did  
22 you tell anybody about this comment?  
23 **A. No.**  
24 Q. Did you report it to Mr. McKechnie?  
25 **A. No.**

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1 Q. Did you report it to Ashley Johnson?  
2 **A. Ashley was there.**  
3 Q. Ashley heard the comment, too?  
4 **A. Yes.**  
5 Q. Who else heard it?  
6 **A. All employees that was there.**  
7 Q. Who -- and who were they?  
8 **A. I'm not sure. I know -- I think Ashley -- she**  
9 **was up there for something. I'm not for sure if she**  
10 **was working or not, but I know she heard it. I know**  
11 **she was in there. She was like okay. Because I had**  
12 **looked -- when she -- when he said it I just looked at**  
13 **her because I knew that Mr. Isaac was getting upset**  
14 **because the girl was being -- she was being mean to him**  
15 **because his -- her check wasn't there, so when -- he**  
16 **was like -- I knew something was going to happen, but I**  
17 **didn't think nothing else of it. I just kept on**  
18 **working. I -- at that point I was used to him saying**  
19 **stuff, you know.**  
20 Q. Do you recall telling MaryAnn Brothers about  
21 this incident?  
22 **A. I don't -- I don't know if I told her about**  
23 **that one at the time.**  
24 Q. Did you ever confront Mr. Isaac and ask him  
25 about his use of the -- this -- this language?

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1 **A. No.**  
2 Q. Did you ever let him know that this type of  
3 language was offensive to you?  
4 **A. No.**  
5 Q. Let me back up. Did you find this language  
6 offensive?  
7 **A. Yes.**  
8 Q. And again, you didn't put this in your EEO --  
9 EEOC charge because it was your understanding that  
10 you --  
11 **A. It wasn't pertaining to me.**  
12 Q. Let me --  
13 **A. I'm sorry.**  
14 Q. Okay. Anything else?  
15 **A. When -- the day Thomas White's mom called up**  
16 **there she was upset that his check was short or -- his**  
17 **check was short, I believe, and they had words and --**  
18 **they had words, I guess, and a little bit later she**  
19 **came up there and Mr. Isaac said something about --**  
20 **what did he say? He said something to the effect of he**  
21 **was sick and tired of -- sick and tired of people**  
22 **coming -- people acting a fool or something like that,**  
23 **but that wasn't pertaining to me so I was just -- after**  
24 **she came in being mean and stuff I like kind of went**  
25 **outside.**

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<p>1 Q. Okay. So did you hear Mr. Isaac make that 2 comment to her? 3 <b>A. He made some -- he didn't make it to her. He 4 just -- he walked in the back because I -- I knew he 5 was upset about it, so he walked in the back, and when 6 he was walking in the back kind of mumbling like he 7 said something to the point, well, I'm getting sick and 8 tired of they asses, or something, and then about that 9 time I just went on out the door.</b> 10 Q. Okay. Did he use ass or not because the first 11 time you said that -- 12 <b>A. He -- he used -- he used ass frequently. That 13 was part of his vocabulary.</b> 14 Q. Okay. Did he mention any type of derogatory 15 terms with respect to race? Did he use the N word? 16 <b>A. No.</b> 17 Q. Did he use ghetto? 18 <b>A. When he got through talking on the phone he 19 used ghetto, but not when she came up there.</b> 20 Q. Did he use black? 21 <b>A. Yes.</b> 22 Q. Well, to -- to Mr. White's mother at that 23 time? 24 <b>A. He didn't say -- he didn't say anything 25 directly to his mother.</b></p> <p style="text-align: right;">Page 73</p>	<p>1 Q. But you were there? 2 <b>A. Yes.</b> 3 Q. Were you offended by what he said? 4 <b>A. Yes. I was always offended.</b> 5 Q. You were always offended by anything that he 6 said? 7 <b>A. Not anything, but when he do stuff racial, 8 yes.</b> 9 Q. Okay. Any other examples of when Mr. Isaac 10 was using racially derogatory terms or discriminate 11 based on race? 12 <b>A. Not that I can recall.</b> 13 Q. Also referring to Exhibit Number 2, you state 14 that only the -- the Hispanic employees got a raise. 15 How -- how do you know that Hispanic employees got a 16 raise? 17 <b>A. Because they did. We got evaluated in 18 January. They got a raise. And the people -- the 19 people that actually started off there, we didn't get a 20 raise.</b> 21 Q. How do you know that the people that -- 22 <b>A. Well, I know -- I'm sorry. I'm sorry.</b> 23 Q. How do you know that these individuals 24 received a raise? I think your answer was they did, 25 but I was asking you how do you know that they did?</p> <p style="text-align: right;">Page 75</p>
<p>1 Q. Okay. 2 <b>A. He was just saying it walking towards the 3 back.</b> 4 Q. Okay. The comment that he made when he was 5 walking to the back, did he mention anything about 6 race? 7 <b>A. I know he did, but I -- I don't want to say 8 how he said it because I'm not sure of how he said it. 9 That's why --</b> 10 Q. Well, how do you know that he did? 11 <b>A. Because I -- okay. He said something to the 12 effect of they asses always getting on my nerves. 13 They -- I don't even want to say it because I don't 14 even know what he said actually, so I'm going to just 15 leave it alone.</b> 16 Q. Okay. So you're -- you're not sure what he 17 said as you sit here today? 18 <b>A. Yes, I'm -- I know he said something about the 19 racial, but I'm not for sure of how he said so I don't 20 want to say it, then it will be turned around on me 21 like, you know, so I don't want to say it.</b> 22 Q. I just trying to figure out what he said. 23 <b>A. I can't remember what he said exactly, but I 24 know it was racial. That's why I don't want to say 25 anything.</b></p> <p style="text-align: right;">Page 74</p>	<p>1 <b>A. Because the majority of them told us.</b> 2 Q. Okay. Were you involved in any type of the 3 decision making or discussions about the employees' 4 evaluations of how they were performing? 5 <b>A. No.</b> 6 Q. Were you involved in the decision-making 7 process on awarding raises to individuals? 8 <b>A. No.</b> 9 Q. Do you -- do you know what these individuals 10 were making to start with? 11 <b>A. No.</b> 12 Q. Are you aware if any African Americans 13 received a raise? 14 <b>A. No.</b> 15 Q. Okay. Do you have any evidence that Five Guys 16 was discriminating against African Americans when they 17 awarded certain Hispanic employees a raise? 18 <b>A. No.</b> 19 Q. How did Mr. Isaac's comments, his racially 20 derogatory comments that you've listed, change the way 21 that you perceived your work environment? 22 <b>A. Because I felt like -- I felt like it's not 23 something that a -- a higher person should be doing the 24 work, you know, and it -- it kind of hurt me because I 25 seen him more as like somebody I could actually come</b></p> <p style="text-align: right;">Page 76</p>

<p>1 and talk to, but once he started doing that I quit  2 talking to him a lot. I wouldn't even ask him  3 questions about work. I felt uncomfortable even just  4 talking to him, period.  5 Q. Okay. So his -- his racial comments made you  6 feel uncomfortable about talking to him?  7 A. Yes.  8 Q. Okay. Anything else that his comments had an  9 effect on your -- your ability to work there?  10 A. His comment -- well, actually, I -- I actually  11 really didn't work on his shift anymore either, not a  12 lot. I did some days, but not a lot.  13 Q. So there was a time when -- when -- when you  14 weren't on the same shift as Mr. Isaac?  15 A. Right.  16 Q. And do you recall when that was?  17 A. No.  18 Q. Was it --  19 A. It was after February.  20 Q. Okay. But this would have been before  21 Mr. Isaac was promoted to area manager, correct?  22 A. Right.  23 Q. Just so I'm clear, because I know that we had  24 a -- a -- a group of certain types of alleged  25 discrimination and then it was your testimony that --</p> <p style="text-align: right;">Page 77</p>	<p>1 Q. Okay. And what did LaShonda say about them?  2 A. She would -- she would kind of -- sometimes  3 she'd kind of like laugh it off like, yeah, right. Did  4 he say that for real? I'd like yes. She'd be like  5 well, why you look like that? I'd like cause I -- I  6 can't -- I just couldn't get over the fact that John  7 would actually use words like that in them kinds of  8 ways, you know what I'm saying.  9 Q. Did LaShonda give you any -- any advice about  10 maybe you should go talk to John or --  11 A. No.  12 Q. -- anybody else? Do you recall specifically  13 having a conversating with LaShonda about the comment  14 about Broderick, the lazy -- lazy ass N comment?  15 A. Do I recall the conversation?  16 Q. I mean, you -- let me back up. You recall  17 talking to her about it, right? It's your testimony  18 that you told LaShonda about these comments?  19 A. Yes, we talked about it. That's right.  20 Q. Okay. But do you remember specifically where  21 you were when you told LaShonda about any of these  22 comments?  23 A. In my living room.  24 Q. In your living room. And did you have these  25 conversations with her like the same day that you heard</p> <p style="text-align: right;">Page 79</p>
<p>1 that the first three things were relating to you and  2 the other three were not relating to you. My question  3 to you is out of all the times that you heard any type  4 of language or comments that you felt were racially  5 discriminatory or racial harassment, did you ever  6 complain to Mr. McKechnie?  7 A. No.  8 Q. Did you ever complain to Mr. Cardinal?  9 A. I don't believe, no.  10 Q. Did you ever approach Mr. Isaac and tell him  11 that you weren't comfortable about the type of language  12 he was using?  13 A. No.  14 Q. Did you tell LaShonda about these other  15 comments, the comment that Mr. Isaac allegedly made  16 about Broderick being a lazy ass, I don't want to keep  17 using the N word, --  18 A. Yes.  19 Q. -- I'm uncomfortable with it, the N word, the  20 fact that the high school student, her check wasn't  21 there and John used ghetto ass, and the issue about  22 Thomas White's mother, but you don't recall the exact  23 language that he used, did you discuss all three of  24 these with LaShonda?  25 A. Yes.</p> <p style="text-align: right;">Page 78</p>	<p>1 them or did it all -- did you talk about all these at  2 one point in time well after these events had occurred?  3 A. At the time that this would happen I'd talk to  4 her about it.  5 Q. Anybody else that -- that you would talk to  6 about these issues?  7 A. Just Ms. Brothers and Ms. Johnson.  8 Q. You don't believe you were -- you were  9 retaliated against, correct?  10 A. I don't know what to think.  11 Q. Okay.  12 A. But not -- no. I -- retaliated against what?  13 Q. Do you believe that you opposed some type of  14 unlawful practice at Nashville Five Guys? Did you  15 oppose it?  16 A. No.  17 Q. Okay. And I'll just draw your attention to  18 Bell Exhibit Number 2 again. There's a box for  19 retaliation. Did this lady who was at the EEOC explain  20 to you when the box for retaliation should be checked?  21 A. No.  22 Q. Okay. But you did not check retaliation;  23 correct?  24 A. No.  25 Q. Okay. You checked national origin. Why did</p> <p style="text-align: right;">Page 80</p>

1 you check national origin on this charge?  
2 **A. Because when I asked her about the different**  
3 **things that was going on she said it was the race, it**  
4 **was the race discrimination.**  
5 Q. Okay. Well, there's a box for race, also,  
6 correct?  
7 **A. Yes, and it's checked.**  
8 Q. Okay. And national origin is also checked, so  
9 I'm asking you how do you feel like you were  
10 discriminated on the -- on the basis of your national  
11 origin?  
12 **A. I always thought they meant the same thing**  
13 **just to be honest.**  
14 Q. What is your national origin?  
15 **A. I'm African American.**  
16 Q. Okay. And you -- were you born in Africa or  
17 the United States?  
18 **A. United States.**  
19 Q. All right. Do you know what the term national  
20 origin means?  
21 **A. No.**  
22 Q. Okay. Other than Mr. Isaac, have you heard  
23 anybody else at Five Guys use racially derogatory  
24 terms?  
25 **A. Not that I can recall.**

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1 Q. Did any of the African American employees use  
2 terms that could have been viewed by some people as  
3 racially derogatory?  
4 **A. Not that I heard, no.**  
5 Q. Have you ever used them?  
6 **A. No.**  
7 Q. Did you ever hear Mr. Cardinal use racially  
8 derogatory language?  
9 **A. I used to tune him out. I used to tune him**  
10 **out --**  
11 Q. Does that mean you --  
12 **A. -- unless he was teaching us what to do.**  
13 Q. Does it -- did you hear him use racially  
14 derogatory language?  
15 **A. No.**  
16 Q. Did you ever hear him use foul language? Did  
17 he ever hear him use the F word at work?  
18 **A. I don't believe so.**  
19 Q. Do you believe Mr. Cardinal engaged in any  
20 type of racial discrimination while he was employed at  
21 Five Guys?  
22 **A. No.**  
23 Q. Okay. So you don't believe Mr. Cardinal  
24 discriminated against you in any form or fashion; is  
25 that --

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1 **A. No.**  
2 Q. The same question about Ashley Johnson. Do  
3 you believe Ashley Johnson discriminated against you in  
4 any form or fashion?  
5 **A. No.**  
6 Q. How about Ms. Brothers?  
7 **A. No.**  
8 Q. Did you ever feel like you were threatened at  
9 work?  
10 **A. Threatened how?**  
11 Q. Physically threatened.  
12 **A. No.**  
13 Q. How about threatened at all?  
14 **A. I used to always feel like my job was**  
15 **threatened, yes.**  
16 Q. How?  
17 **A. Just the -- I thought that stuff was being**  
18 **done to me that will make me want to quit. That's how**  
19 **I felt like my job was being threatened.**  
20 Q. Like what?  
21 **A. Like by making me do little stuff, and about**  
22 **my drawer, and the trash, and the lobby and things like**  
23 **that. That's how I felt. I thought that they really**  
24 **wanted me gone.**  
25 Q. Okay. So you felt that your job was

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1 threatened because individuals at Five Guys were asking  
2 you to do certain work tasks, is that what you're  
3 telling me?  
4 **A. Not just asking me to do certain things, but**  
5 **just like if somebody else is in charge of doing that,**  
6 **why would you pick on me every day to do these tasks?**  
7 Q. I -- I think we discussed that in detail.  
8 Let me ask you this. With respect to the cash  
9 shortages, did Mr. Isaac or anybody else at Five Guys  
10 ever accuse you of stealing?  
11 **A. No.**  
12 Q. Did you ever accuse Mr. Isaac of being the one  
13 who was taking money out of the drawer?  
14 **A. No.**  
15 Q. You never told that to anybody?  
16 **A. No. It was brought to my -- it was brought to**  
17 **my attention that every time he counted out my drawer**  
18 **that's when my drawer was coming up short.**  
19 Q. And who brought that to your attention?  
20 **A. After the investigation every time -- I**  
21 **believe it was Ashley Johnson. She -- after the**  
22 **investigation she said that every time that he would**  
23 **count down my drawer it will come up \$20 short.**  
24 Q. Okay. How about the time when Ashley Johnson  
25 counted your drawer and it was short?

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1 **A. Yes.**  
2 Q. Okay. So I guess not every time, right? It  
3 was -- it wasn't always Mr. --  
4 **A. No, it was --**  
5 Q. -- Mr. Isaac?  
6 **A. -- it was like every time when I didn't**  
7 **lock -- we had a -- we could lock our drawer. Every**  
8 **time when somebody else would work on my drawer -- I**  
9 **really didn't let nobody else work on my drawer except**  
10 **for like two or three people, but majority of the**  
11 **time -- after -- okay. After the investigation started**  
12 **it was only like a week or so that I stayed on the**  
13 **register and that's when my drawer was coming up short,**  
14 **but before then it would only be me, Mr. Isaac, and**  
15 **probably like one other person that would go in my**  
16 **drawer.**  
17 Q. Other cashiers that would have been working on  
18 different shifts at your store, do you have any idea if  
19 their registers were coming up short when Mr. Isaac  
20 would count their drawers?  
21 **A. I would not know.**  
22 Q. Who did Mr. Isaac help or compel or command to  
23 gage -- to engage in discriminatory practices?  
24 **A. I'm sorry? Who did --**  
25 Q. Did you review a complaint that was filed in

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1 this matter that your attorneys drafted? Do you know  
2 what a complaint is?  
3 **A. Yes. A complaint about -- somebody**  
4 **complaining about something.**  
5 Q. Let -- let me ask you this way. Do you  
6 believe that Mr. Isaac ever told somebody or commanded  
7 somebody to engage in some type of discriminatory  
8 practice?  
9 **A. I don't recall that.**  
10 Q. How about Mr. McKechnie? Do you believe  
11 Mr. -- Mr. McKechnie was discriminating against you in  
12 any form or fashion?  
13 **A. No. I never had a connection with Bill like**  
14 **that. I just seen him when he came into the store.**  
15 Q. So you have no evidence or -- or no belief  
16 that Mr. McKechnie ever discriminated against you  
17 based --  
18 **A. No.**  
19 Q. -- on your race? Do you believe Mr. Isaac is  
20 the only one that discriminated against you?  
21 **A. As far as I know.**  
22 Q. Well, that's not what I'm asking you. I'm  
23 asking you is it your belief.  
24 **A. Yes.**  
25 Q. And you don't have any evidence or any facts

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1 that would lead you to believe that anybody other than  
2 Mr. Isaac was discriminating against you based on your  
3 race, correct?  
4 **A. Yes.**  
5 Q. Let me ask you this. What was the absolute  
6 worst conduct you ever observed at Five Guys, whether  
7 it was Mr. Isaac or somebody else?  
8 **A. When people would get up -- when -- the two**  
9 **occasions when the -- when Thomas White's mother and**  
10 **high school student got -- got upset about their**  
11 **checks.**  
12 Q. Okay. It -- it was comments that Mr. Isaac  
13 made about the White incident and the -- the high  
14 school --  
15 **A. You asked me what was the two worst.**  
16 Q. No, I asked you what was the absolute worst  
17 conduct you ever observed at Five Guys.  
18 **A. Those were the two.**  
19 Q. Okay.  
20 **A. Those two conducts right there.**  
21 Q. Okay. The comments that he made about  
22 Mr. White's mother, right? That's one of them?  
23 **A. The whole incident, period.**  
24 Q. Okay. And the high school student?  
25 **A. Yes.**

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1 Q. Okay. And that's one where he said he was --  
2 or he allegedly said that he was tired of their ghetto  
3 asses?  
4 **A. Yes.**  
5 Q. Okay. And the other one was the Thomas White  
6 mother's incident. It's your testimony that was one of  
7 the two most outrageous, correct?  
8 **A. Yes.**  
9 Q. Was that the first most or second most  
10 outrageous?  
11 **A. They was neck and neck.**  
12 Q. Okay. So it --  
13 **A. And --**  
14 Q. -- it was that outrageous, but you can't  
15 recall what was said?  
16 **A. I --**  
17 MR. JANNEY: Objection to -- to the form  
18 of the question.  
19 **A. Actually, I -- I didn't want to recall those.**  
20 BY MR. BAGGETT:  
21 Q. Okay.  
22 **A. When I was called to -- when I was asked to be**  
23 **a witness is when I went down and try to remember**  
24 **everything.**  
25 Q. Who asked you to be a witness?

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<p>1 <b>A. Ms. Brothers asked me would I be a witness to</b>  2 <b>her.</b>  3 Q. When was this?  4 <b>A. Like a couple days before I went to the EEOC.</b>  5 Q. Okay. And what did Ms. Brothers and you  6 discuss when she wanted to know if you would -- would  7 be a witness?  8 <b>A. She just asked me if I would be a witness to</b>  9 <b>her -- I'm not sure how she put it, but would I be a</b>  10 <b>witness to how she was treated at Five Guys.</b>  11 Q. Did you guys talk about filing a lawsuit?  12 <b>A. Not at that point, no.</b>  13 Q. Okay. You just talked about filing EEOC  14 claims?  15 <b>A. Yes.</b>  16 Q. Okay. Did Ms. Brothers -- let me -- prior to  17 you talking to Ms. Brothers about whether you'd be a  18 witness, were you thinking about filing an EEOC charge?  19 <b>A. No.</b>  20 Q. What damages do you believe you suffered based  21 on your experiences and your alleged discrimination at  22 Five Guys?  23 <b>A. I just feel like it -- they're hurting me a</b>  24 <b>lot because I thought the bond that we had when we</b>  25 <b>first started Five Guys, it was just a family bond, so</b></p> <p style="text-align: right;">Page 89</p>	<p>1 always be together. I feel like I lost -- I thought I  2 was going to be able to grow at Five Guys because when  3 I came out of college -- that was the first job I had  4 since I had came out of college and I thought I was  5 going to be able to grow. If -- if I would have  6 thought it wasn't going to be like that I would -- just  7 would have took it as a part-time job and would have  8 took on my medical field, but I guess it wasn't meant  9 to be.  10 Q. Do you blame Five Guys for the  11 deterioration -- the deterioration of your relationship  12 with Ms. Jackson?  13 <b>A. No. I blame her.</b>  14 Q. How long were you unemployed from Five Guys  15 before you started your next job?  16 <b>A. Can I look back?</b>  17 Q. Well, you don't have to be exact. I'm just  18 asking just off the top of your head the best that --  19 <b>A. Oh.</b>  20 Q. -- you can recall.  21 <b>A. I had started training with the Rochelle</b>  22 <b>Center in the end of -- the end of May, I believe, and</b>  23 <b>started working for them in June.</b>  24 Q. And you haven't sought any medical attention  25 based on your separation from your employment at Five</p> <p style="text-align: right;">Page 91</p>
<p>1 <b>my feelings were hurt deeply. I went home crying like</b>  2 <b>majority -- every two -- once every two weeks I know.</b>  3 Q. Okay. So is it your testimony that your  4 damages were that your feelings were hurt?  5 MR. JANNEY: Object to the form. Why  6 don't you tell her what damages are if you're referring  7 to it in the legal sense.  8 MR. BAGGETT: Well, I'm just asking her a  9 question. She can reply --  10 MR. JANNEY: Well, I -- I object to the  11 form of the question --  12 MR. BAGGETT: Okay.  13 MR. JANNEY: -- insofar as it is using a  14 legal term --  15 MR. BAGGETT: You can -- you can object,  16 but let's not get into speaking objections.  17 MR. JANNEY: Well, I'm entitled to state  18 the basis of my objection, counsel, and the basis is  19 you're using a legal term of art and expecting this  20 witness to understand it. Ask your questions.  21 BY MR. BAGGETT:  22 Q. How have you suffered based on the alleged  23 discrimination at Five Guys?  24 <b>A. I lost my job, I lost a best friend, a sister,</b>  25 <b>you know, that I thought was going -- we was going to</b></p> <p style="text-align: right;">Page 90</p>	<p>1 Guys, --  2 <b>A. No.</b>  3 Q. -- correct? And you haven't seen any type of  4 psychiatrist or psychological --  5 <b>A. No.</b>  6 Q. -- or professional -- I guess it could be a  7 psychology professional.  8 Do you know of any customers at Five Guys that  9 would have information that support your claim that you  10 were discriminated against while you were employed at  11 Five Guys?  12 <b>A. No.</b>  13 MR. BAGGETT: Let's go off the record for  14 a minute.  15 THE VIDEOGRAPHER: Going off the record.  16 The time is 6:07.  17 (Recess taken.)  18 THE VIDEOGRAPHER: Everybody ready? Got  19 your mikes on? We are back on the record. The time is  20 6:14.  21 BY MR. BAGGETT:  22 Q. Ms. Bell, just a couple more questions before  23 I let you go.  24 Earlier when you were talking about your  25 relationship with Ms. Jackson, LaShonda Jackson, you</p> <p style="text-align: right;">Page 92</p>



1 said there was some, I guess, deepening -- a deeper  
2 falling out or some other problem that occurred between  
3 the two of you two weeks ago. What was that?  
4 **A. She had -- we had been talking -- like we talk**  
5 **like every two days, and she had lost her job, and she**  
6 **had called me crying and saying she had lost her job,**  
7 **and I guess the last time I talked to her was the day**  
8 **that she had got hired back or they'd let her come**  
9 **back, or whatnot, and that was the last time I talked**  
10 **to her, so -- I was just like I don't know.**  
11 Q. I don't understand what happened between the  
12 two of you that made your relationship get worse two  
13 weeks ago because --  
14 **A. No, it was --**  
15 Q. -- she lost her job and went back.  
16 **A. -- it was already a rocky -- a rocky**  
17 **relationship since she had been at Five Guys and I**  
18 **haven't because she will call me up, be like girl,**  
19 **guess what happened at work. I don't want to hear**  
20 **about that. I don't want to know nothing about what's**  
21 **going on with Five Guys. That's none of my concern**  
22 **anymore.**  
23 But she was calling me the day that she was  
24 laid off, or whatever the fact was, crying and we was  
25 just talking like old times, or whatever, and the last

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1 time she called me she was -- told me that my job --  
2 they wanted to talk to me again.  
3 She told me, well, I went back to work today,  
4 so I guess I'll call you later on. I said you going to  
5 call me talking about more Five Guys? Said I really  
6 don't want to know. So I -- I really thought she --  
7 well, let me back up.  
8 She had asked me what was going on with the  
9 claims that we had filed. I had told her -- with the  
10 claims that we had filed, and I told her that was none  
11 of her business. I said, now, whoever told you what  
12 was going on they was wrong for doing it, I said,  
13 because I know I ain't told you nothing like that  
14 because me and her don't talk on that level anymore.  
15 She said, well, I just wanted to know. I'm not telling  
16 you nothing like that.  
17 Q. When was this?  
18 **A. That was when she had got laid off.**  
19 Q. Laid off from where?  
20 **A. Five Guys.**  
21 Q. And when was this?  
22 **A. About two weeks ago.**  
23 Q. And it's your understanding that she's  
24 employed now, or not?  
25 **A. She went back.**

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1 Q. But other than the Five Guys thing, there was  
2 nothing that happened between you and Ms. Jackson that  
3 hurt your friendship even more?  
4 **A. Just the Five Guys thing.**  
5 Q. Okay. Earlier we talked about the time  
6 that -- when Ms. Brothers came -- Ms. Brothers came to  
7 you and asked you if you would be a witness for her at  
8 the EEOC level.  
9 **A. Yes.**  
10 Q. And -- and I asked you the -- the question  
11 along the lines of have you talked about filing a  
12 lawsuit and your answer was --  
13 **A. No.**  
14 Q. -- not yet, not at that time, something along  
15 those lines. Do you recall that?  
16 **A. Yes.**  
17 Q. When did you and Ms. Brothers decide that you  
18 were going to file a lawsuit?  
19 **A. I really don't recall because I had asked**  
20 **her -- I knew what the EEOC was, but I didn't know**  
21 **of -- of what -- of what really they was going to do**  
22 **for her, or whatever. So when I went down there I**  
23 **just -- actually, I went down there to be her witness,**  
24 **but I actually filed out -- filled out a paper because**  
25 **I thought that's what I was supposed to do.**

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1 Q. What kinds of paper did you fill out?  
2 **A. I filled out a charge paper.**  
3 Q. Like an intake questionnaire?  
4 **A. Yes, I think that's what it's called,**  
5 **something. When I got through the man -- the lady told**  
6 **me could I wait for like 30, 45 minutes and they'll**  
7 **have my paper typed up, and they gave me this paper, a**  
8 **paper like this.**  
9 Q. I don't want you to answer any -- I don't want  
10 you to tell me anything that your attorneys have told  
11 you, --  
12 **A. Uh-huh.**  
13 Q. -- okay, --  
14 **A. Yes.**  
15 Q. -- or anything that your attorneys have  
16 instructed you or the other clients to do.  
17 **A. Yes.**  
18 Q. My question is how did you and the other  
19 plaintiffs come together against Five Guys in this  
20 lawsuit?  
21 **A. Well, I know I talked to Ms. Brothers about it**  
22 **and I asked her -- when she told me what she was doing**  
23 **I was like, well, is that what I need to do, because**  
24 **I've never did anything like this before, and she was**  
25 **like yes, you could be a witness, and I was like, but**

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<p>1 <b>what is going to come out of it, what good is going to</b>  2 <b>come out of it, and she was trying to explain it to me,</b>  3 <b>and that's when I --</b>  4 Q. What good did she say was going to come out of  5 it?  6 <b>A. She was just like he would -- people would</b>  7 <b>know how he treated you and things like that.</b>  8 Q. At that time that you had that conversation  9 with Ms. Brothers did she say anything about the other  10 plaintiffs in the suit?  11 <b>A. No.</b>  12 Q. Did she tell you that Mr. Jim Newman was on  13 board pursuing the company, --  14 <b>A. No.</b>  15 Q. -- anything along those lines?  16 <b>A. No.</b>  17 Q. Did she -- the same question with respect to  18 LaToya Moore.  19 <b>A. No.</b>  20 Q. She didn't say anything about Thomas White was  21 going to be a witness or was going to be involved in a  22 lawsuit?  23 <b>A. No. All that she said was I'm just trying to</b>  24 <b>get all the witnesses that I can. She didn't ever tell</b>  25 <b>me the names --</b></p> <p style="text-align: right;">Page 97</p>	<p>1 Q. Do you have any firsthand knowledge -- do you  2 know what I mean by firsthand knowledge?  3 <b>A. Yes.</b>  4 Q. Okay. I'm not asking about what somebody else  5 told you, but something that you've actually observed  6 or you actually, you know, saw take place. Okay.  7 Do you have any firsthand knowledge as to  8 whether any of the other plaintiffs in this lawsuit  9 were discriminated against or retaliated against other  10 than the things that we've discussed today relating to  11 your testimony today?  12 MR. JANNEY: Objection to the form to the  13 extent that it calls for a legal conclusion. Go ahead.  14 <b>A. Other than what we discussed today?</b>  15 BY MR. BAGGETT:  16 Q. Yes, ma'am.  17 <b>A. No.</b>  18 MR. BAGGETT: That's all I have.  19 THE VIDEOGRAPHER: This is the end of the  20 videotaped deposition of Dominique Bell. The time is  21 6:21.  22 (Deposition concluded.)  23  24  25</p> <p style="text-align: right;">Page 99</p>
<p>1 Q. Well, when did --  2 <b>A. -- until later on.</b>  3 Q. -- when did -- well, until later on. When did  4 everybody come together?  5 <b>A. When we -- when we --</b>  6 MR. GRACE: He asked you when.  7 THE WITNESS: When?  8 MR. GRACE: Be careful. Don't tell him  9 anything that your lawyers have told you.  10 <b>A. When we came together the next time was when</b>  11 <b>we met with -- when we came together the next time we</b>  12 <b>was meeting with Mr. Grace.</b>  13 BY MR. BAGGETT:  14 Q. Who told you to meet Mr. Grace?  15 <b>A. Ms. Brothers.</b>  16 Q. Okay. Ms. Brothers had set up a meeting or  17 something and she told you that you needed -- you could  18 come and meet with Mr. Grace?  19 MR. JANNEY: Objection to form.  20 Speculation.  21 <b>A. Yes.</b>  22 BY MR. BAGGETT:  23 Q. Okay. At that time did Ms. Brothers inform  24 you that the other plaintiffs were on board?  25 <b>A. Yes.</b></p> <p style="text-align: right;">Page 98</p>	<p>1 C E R T I F I C A T E  2  3 I, B. J. Davis, Certified Court Reporter and  4 Notary Public, State of Tennessee at Large, do hereby  5 certify that I recorded to the best of my skill and  6 ability by machine shorthand the proceedings contained  7 herein, that same was reduced to computer transcription  8 by myself, and that the foregoing is a true, accurate,  9 and complete transcript of same.  10 I further certify that I am not an attorney or  11 counsel of any of the parties, nor a relative or  12 employee of any attorney or counsel connected with the  13 action, nor financially interested in the action.  14 This 1st day of June 2009.  15  16  17  18  19 B. J. Davis  20  21  22  23  24 My Commission Expires:  25 November 22, 2010</p> <p style="text-align: right;">Page 100</p>